

FINAL REPORTS OF THE INTERIM JOINT, SPECIAL, AND STATUTORY COMMITTEES

1996-97

Presented to the
**Legislative Research Commission
and the
1998 Kentucky General Assembly**

Edited by
Charles Bush

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FOREWORD

The Kentucky Constitution limits the meeting of the General Assembly to sixty legislative days in even-numbered years and to a ten-day organizational session in odd-numbered years. Prior to 1968, there was no activity during the interim period between sessions. The 1970s brought great changes in the legislative setting in Kentucky. The activity of legislative committees has steadily increased during each succeeding interim.

With the implementation of the constitutional amendment approved in 1979, the interim activity takes on added significance. This amendment, frequently called the Kenton amendment, changed the election year for legislators from odd- to even-numbered years. Consequently, a legislator serves one year of the term in interim activity before a regular session of the General Assembly is held. With the phased-in implementation of the amendment, the 1984-85 interim marked the first time legislators were elected in even-numbered years and were afforded the opportunity to become familiar with issues and procedures prior to the Regular Session.

During the 1996 interim, the Legislative Research Commission authorized the formation of thirteen interim joint committees. In addition, ten special committees were established to address particular issues during the interim. Six committees of the General Assembly and the Legislative Research Commission are authorized by statute.

The Legislative Research Commission provides this informational booklet as a summary of the activity of interim joint, special, and statutory committees since adjournment of the 1996 General Assembly. The reports were prepared separately by the committee staff and were compiled and edited by Charles Bush, Research Editor.

Don Cetrulo
Director

The Capitol
Frankfort, Kentucky
December, 1997

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**REPORT OF THE 1996-97
INTERIM JOINT COMMITTEE ON
AGRICULTURE AND NATURAL RESOURCES**

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LRC STAFF: Daniel J. Risch, Andrew Cammack, Biff Baker, Kim Burch, and Lisa Dale
Thomas

**PRESENTED TO THE LEGISLATIVE RESEARCH COMMISSION
AND THE
1998 REGULAR SESSION
OF THE KENTUCKY GENERAL ASSEMBLY**

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INTERIM JOINT COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

JURISDICTION: matters pertaining to crops, livestock, poultry, and their marketing, disease control, and warehousing; tobacco; stockyards; agricultural cooperatives and marketing associations; agriculture weights and measures; veterinarians; State Fair; county fairs; water pollution; air pollution; management of waste; protection of the environment; noise pollution; forestry; mining; fish and wildlife resources; soil and water conservation; flood control and water usage; drainage and irrigation; geology and water resources; waterways and dams; oil, gas, and salt water wells; state and national parks; Natural Resources and Environmental Protection Cabinet; and all matters not specifically assigned to another committee relating to administrative, regulatory, or operating issues which, because of their smaller size, uniquely impact small business.

COMMITTEE ACTIVITY

Senator Jeff Green co-chaired the Committee until the midpoint of the interim. Staff wishes to express their sadness at Jeff's death and the loss of his leadership and his friendship.

In mid-October, 1997, the Senate Committee on Committees appointed Senator Bob Leeper to be the Senate Co-Chair of the Committee. Senator Leeper assumed his co-chair role at the November, 1997, meeting.

The Interim Joint Committee on Agriculture and Natural Resources met 14 times during the 1996-97 legislative interim as of November 30, 1997. In addition to its Frankfort meetings, the Committee held a three-day meeting in eastern Kentucky, met with members of the State Fair Board during the 1996 and 1997 state fairs, and viewed the ongoing construction at the University of Kentucky Animal Science Research Center in Woodford County.

The Committee's subcommittees met 12 times during this reporting period, making a total of 26 meetings during the interim.

Coal mining safety was a subject of study this interim. A report was received on implementation of 1996 legislation that required the creation of a Mining Board and that strengthened requirements for the training, certification, and retraining of mine emergency technicians.

This discussion led to a second meeting to further explore mine safety. The Chair indicated a particular interest in correlating mine accidents with the time during a work shift when the accident occurred. The Chair stated his belief that more effective safety measures could be put in place if such a correlation exists.

The Committee also looked at an initiative called Empower Kentucky. The initiative is state government's plan to use technology to cut costs and improve state government services.

The Department of Surface Mining Reclamation and Enforcement demonstrated an Empower Kentucky project to use technology to reduce the use of paper and to speed up issuing

and modifying surface coal mine permits. The Department also reported on efforts to further improve the state's relationship with the federal Office of Surface Mining.

As this report was prepared, staff learned that a long awaited Forest Stewardship Act proposal was to be released by the Governor's Office. Should the proposal be released, the committee will ask that an explanation of the Act be given at the November meeting. The Committee has prepared to debate the subject of proper forest management during the next session by visiting a logging site and receiving updates on development of the Governor's proposal from the Department of Natural Resources.

Several environmental topics were taken up by the Committee. As the U.S. EPA approached making a decision in July, 1997, on tightening the national air quality standards for ozone and particulate matter, the Committee studied the potential effects of the EPA's decision on the state. The Committee concluded that the tightened standards would adversely affect Kentucky. A resolution was sent to the U.S. EPA asking that the standards not be tightened without more study.

The Natural Resources and Environmental Protection Cabinet reported on a significant push to end the discharge of sewage straight into the state's streams from private homes. In a related matter, the Cabinet also reported on a crackdown on illegal solid waste dumping. Both problems are viewed as impediments to tourism and economic development, especially in eastern Kentucky.

The Committee listened to a report from the Center for Pollution Prevention. Impressed by the work of the Center to help small and medium-sized businesses voluntarily avoid waste generation, the Committee decided to ask the Cabinet to implement a program that would boost the work of the Center.

The Committee asked the Cabinet to implement the Environmental Leadership Program. The program would publicly acknowledge businesses that voluntarily reduce waste. Such a program, it is believed, would increase awareness among businesses and the public of the benefits of voluntary waste reduction. The Cabinet's response was that the Environmental Leadership Program did not have a high priority with the agency.

Several agriculture-related topics were taken up by the committee during the interim.

A meeting was held to consider changes in high school graduation requirements proposed by the Department of Education. The Committee learned that many educators believed the changes could adversely affect farming communities. It was argued that the changes would force students to drop vocational-agricultural course electives. This in turn could discourage young adults from seeking careers in agriculture.

The Committee decided that the concerns had merit and sent a letter to the Department of Education opposing the changes.

The Committee also took up two particularly contentious topics: industrial hemp as a cash crop and tougher standards for hog farming. Both topics arose because of the continuing shift in Kentucky's agricultural economy.

As tobacco remains under a cloud of uncertainty, some view industrial hemp as another cash crop Kentucky farmers might grow. However, the Committee learned that federal restrictions on growing marijuana, a closely related plant, also apply to industrial hemp.

Concentrated hog farming has arisen as another possible approach to increasing farm productivity. The Committee heard testimony late in the interim on an emergency regulation of the Department of Environmental Protection. The regulation was written to control the risk of environmental harm while not adding unnecessarily to the costs of hog farming. The Committee expressed an interest in watching the issue closely.

Administrative Regulations

The Committee oversees state agencies that have promulgated approximately 28 percent of all executive branch administrative regulations.

This interim the Committee and its subcommittees reviewed 202 administrative regulations. These regulations related to the programs of the Department of Agriculture, the Department of Fish and Wildlife Resources, the Department of Mines and Minerals, the Divisions of Air Quality, Waste Management, and Water, in the Department for Environmental Protection, and the Office of the Petroleum Storage Tank Environmental Assurance Fund.

All of the regulations were found to comply with statutory requirements, although not without debate and requests for clarification.

For example, the Division of Waste Management sought significant change to its entire hazardous waste program, which affected 123 regulations. Upon the Committee's initial review, the regulations were found deficient and not in compliance with statutory requirements.

The Chair of the Committee explained the action of the Committee by saying that the agency's long overdue revision of the regulations created a situation where the agency could not adequately inform the Committee members of the changes, as required by statute. After representatives of the Division more fully informed the members of the proposed regulatory changes, the Committee, at its next meeting, reconsidered its earlier action and determined that the regulations did meet statutory requirements.

Also, ten regulations of the Office of the Petroleum Storage Tank Environmental Assurance Fund were, with the agreement of the Office, held over for a second review by the Committee. This action was taken in response to a business entity affected by the regulations which wanted more time to review and comment on the regulations.

Similarly, at the request of the agency, one regulation of the Department of Mines and Minerals was held over four months in order to give affected businesses and the agency time to revise provisions of the regulation objectionable to the affected businesses.

Reorganization Plans

The Committee reviewed and reported to the Legislative Research Commission on the following Reorganization Plans:

- 96-485 Establishes the Office of Underground Storage Facilities and abolishes the Kentucky Petroleum Storage Tank Environmental Assurance Fund Commission.
- 96-591 Incorporates by reference Executive Order 96-485 and renames the Office of Underground Storage Facilities the Office of Petroleum Storage Tank Environmental Assurance Fund.
- 96-619 Transfers enforcement of SB 137 of the 1996 General Assembly, which relates to prohibiting tobacco sales to minors, to the Department of Alcoholic Beverage Control from the Department of Agriculture.
- 96-697 Establishes the Office of Legal Services of the Natural Resources and Environmental Protection Cabinet, Central Investigation Section.
- 96-726 Abolishes the Division of Water Patrol in the Department of Fish and Wildlife Resources.
- 96-944 Establishes the Office of Information Services and the Public Information and Education Branch in the Natural Resources and Environmental Protection Cabinet and abolishes the Office of Communications and Community Affairs.
- 96-946 Establishes the Kentucky Recycling Marketing Advisory Committee and abolishes the Recycling Brokerage Authority.
- 96-1438 Transfers administration of the Emergency Food Assistance Program to the Department of Agriculture from the Cabinet for Families and Children.
- 97-714 Renames the Division of Abandoned Lands in the Department for Surface Mining Reclamation and Enforcement.
- 97-1040 Abolishes the Lock and Dam Section in the Natural Resources and Environmental Protection Cabinet and transfers its functions to the Kentucky River Authority.
- 97-1374 Transfers the Animal Diagnostic Laboratory Advisory Committee to the Department of Agriculture for administrative purposes.
- 97-1386 Creates the Division of Mine Licensing within the Department of Mines and Minerals.

The Committee determined that each of these Reorganization Plans "...can reasonably be expected to achieve greater economy, efficiency, or improved administration in state government..."

Resolutions and Letters Requesting Action

A letter was sent to the Natural Resources and Environmental Protection Cabinet requesting that the Environmental Leadership Program in KRS 224.46-335 be implemented.

A letter was sent to the state Department of Education opposing changes to high school graduation requirements.

A resolution was adopted requesting the United States Environmental Protection Agency to retain the present Clean Air Act standards for ozone and particulate matter.

A second resolution was adopted asking the U.S. EPA to dismiss the federal Clean Air Act, Section 126, petition filed by the northeastern states, which would negatively affect Kentucky.

Reports Sent to the Legislative Research Commission

The 1996 General Assembly passed House Concurrent Resolution 97. The resolution directed the committee to review the current requirements under KRS Chapter 258 relating to dogs and the current animal control problems in the state and to make recommendations to the Legislative Research Commission.

The Committee delegated the HCR 97 study to the Subcommittee on Agriculture and Small Business. The Subcommittee completed its work, the results of which are summarized in the Subcommittee's segment of this report, and reported to the Committee. The Committee accepted the report and sent it to the Legislative Research Commission.

Prefiled Bills Referred by the Legislative Research Commission

The following bills prefiled for the 1998 regular session were referred by the Legislative Research Commission to the Committee:

- 98 RS BR 45 AN ACT relating to water pollution.
- 98 RS BR 179 AN ACT relating to hunting and fishing licenses.
- 98 RS BR 316 AN ACT relating to agriculture and declaring an emergency.
- 98 RS BR 347 AN ACT relating to sales and use tax exemptions.
- 98 RS BR 364 AN ACT relating to animal euthanasia.
- 98 RS BR 384 AN ACT relating to sales tax.

The Committee has scheduled testimony to be received at the November meeting on BR 45 and BR 347.

Legislative Proposals Received from State Agencies

The Committee requested legislative proposals for the 1998 regular session from state agencies with programs under the jurisdiction of the Committee. This has been a standard procedure of the Committee since the interim joint committee system began in 1968.

In response to the requests for legislative proposals, the following information was received prior to the November meeting of the Committee.

Representatives of the Natural Resources and Environmental Protection Cabinet stated that they expect to initiate legislation relating to forestry and the long-term conservation of forest resources, waste tire management, and the state water program, to bring it into conformity with the federal Safe Drinking Water Act.

The Department of Fish and Wildlife Resources submitted the following list of possible legislative proposals:

1. Ratify the Executive Order abolishing the Division of Water Patrol.
2. Revise the waterfowl and migratory bird permit statute to reflect federal requirements.
3. Broaden the actions that are considered damaging to public and private property.
4. Revise the big game permit to cover elk and to allow for multiple big game permits.
5. Allow an assessment of replacement costs when elk are illegally taken.
6. Repeal the ferret statute.
7. Revise the definition of "protected wildlife".
8. Amend the state endangered species statute to reflect current federal law.
9. Remove prohibitions against hunting on a hatchery and the presence of dogs at the Game Farm.
10. Amend KRS 150.225 to raise the maximum license fees the Department may charge.
11. Allow the Department to set boat registration fees by administrative regulation.
12. Increase penalties for boating violations.
13. Delete the ten-day grace period for obtaining a pet or propagation permit.
14. Repeal the fur processor's license and reporting requirements.
15. Allow boaters to participate in commission elections.
16. Create a state wanton waste law.
17. Exempt the Department from the recreational use statutes.

Tours and Site Visits

In the fall of 1996 the Committee toured in eastern Kentucky. While at the Hazard Community College, the Governor and nearly all his Cabinet Secretaries joined with the Committee for a meeting related to the state's forest resources. The Committee also met with several eastern Kentucky county judge/executives to listen to their concerns about solid waste management.

The reason for the Committee's tour in eastern Kentucky was to focus on forest management issues, a subject studied by the Committee over the last four years. On this trip, some members viewed a logging site where industry's "best management practices" were used. Also members toured the manufacturing facilities of Trus Joist MacMillen, which is an example of the state's secondary wood industry. Finally, the Committee met at the Hazard Community College to learn how the University of Kentucky is working to develop a labor force for the wood industry.

The Committee held its August meetings for both years of the interim in conjunction with meetings of the State Fair Board. These meetings took place during the Kentucky State Fair, the premier showcase of Kentucky's agricultural industry. Committee members learned of expansion and renovation plans for the facilities managed by the Fair Board and were able to meet with agricultural leaders from throughout the state.

Late in the interim the Committee visited the University of Kentucky Animal Science Research Center in Woodford County. The President of the University addressed the Committee and explained how the legislative funding for the Center will enable the College of Agriculture to maintain its position as one of the top six schools in the country for animal science research. Members were then given an overview of the plans to develop the research capabilities of the farm, followed by a visit to the location where the beef cattle research unit was under construction.

Reports Received

House Bill 605, AN ACT relating to coal mining and declaring an emergency.

The Committee received a report from the Department of Mines and Minerals on implementation of this 1996 regular session legislation aimed at improving coal mine safety.

Report of the Task Force on Funding for Wildlife Conservation.

The Committee was briefed on the work of the Task Force, which was created by the 1996 General Assembly to study the long-term funding needs and options for wildlife.

1996 Annual Report of the Kentucky Center for Pollution Prevention.

1997 Annual Report of the Heritage Land Conservation Fund Board.

1996 Annual Report of the Heritage Land Conservation Fund Board.

March 31, 1997, Mining and Minerals Trust Fund Report.

September 30, 1997, Mining and Minerals Trust Fund Report.

1997 Annual Report of the Kentucky Recycling and Marketing Assistance Office.

1996 Annual Report of the Kentucky Recycling and Marketing Assistance Office.

January 15, 1997 Biennial Report of the State Nature Preserves Commission.

Report for April 1 - June 30, 1997 of the Tobacco Health Research Institute.

Report for July 1 - September 30, 1997 of the Tobacco Health Research Institute.

Some state agency reports mandated by law may have been accepted by a subcommittee of this committee and are recorded in the subcommittee sections of this report.

Subcommittee on Agriculture and Small Business

The Subcommittee met five times during the interim, as of October 31, 1997. The Subcommittee met in November to discuss the dairy marketing compact and the fluid milk support price. It also reviewed administrative regulation 302 KAR 40:010, relating to organic agricultural product certification.

The focus of the interim activity centered on program updates and legislative proposals by various agencies. Information was presented to the Subcommittee concerning the status of Phase I construction at the UK Animal Research Center in Woodford County, the linked deposit investment program in the Department of Agriculture, and the status of Farm Service Agency office closings in the state. The Subcommittee also heard testimony regarding aquaculture in Kentucky, and got an update from the Small Business Development Center, as required by Kentucky Acts 1996, Chapter 293, Section 2, relating to its annual financial and program status.

In addition, potential legislative proposals were discussed by representatives of the Kentucky Farm Bureau, the UK College of Agriculture, and the Department of Agriculture. Included in the proposals were requests for funding for agricultural programs and the Animal Research Center, and legislation relating to the linked deposit investment program, animal control, and the regulation of the sale of tobacco transplants.

The full committee instructed the Subcommittee to complete a report on animal control and care, required by 1996 House Concurrent Resolution 97. The Subcommittee heard testimony from several people with diverse interests in animal control, including animal control officials, animal shelter managers, state officials, and private citizens. The report was completed and sent to the full committee in September, 1997. The report will be printed by the Legislative Research Commission as a Research Memorandum and will focus on the following topics:

- Current dog licensing program;
- Livestock fund;
- Dog pound requirements;
- Alternate funding sources to support animal control programs; and
- Mechanisms for reviewing programs, disbursing funds, and establishing standards relating to animal control.

The Subcommittee reported the following administrative regulations to the full committee as being in compliance with KRS Chapter 13A:

302 KAR 3:010, relating to the linked deposit investment program;
302 KAR 20:110, relating to the treatment of imported mares;
302 KAR 20:120, relating to the treatment of imported stallions; and
302 KAR 20:180, relating to restrictions concerning equine viral arteritis.

Subcommittee on Environment

The Subcommittee met five times through November 30, 1997. Waste tire management dominated the Subcommittee's interim work. At the first meeting, the Secretary of the Natural

Resources and Environmental Protection Cabinet reported on the topic, underscoring the high priority the cabinet placed on waste tire management.

The cabinet's efforts included cleaning up the most troublesome abandoned waste tire piles across the state, developing administrative regulations to further tighten controls on new accumulations of waste tires, and researching markets for fuel made from waste tires, also called TDF (tire-derived fuel).

As has been reported in past years, an obstacle to cleaning up waste tire piles continues to be a shortfall in money collected for the Waste Tire Trust Fund. Also, boiler operators continue to be reluctant to use tire-derived fuel, but the cabinet reported that serious discussions are ongoing with four potential users of TDF.

(Late in the interim, the Cabinet announced the withdrawal of the proposed waste tire management administrative regulations.)

The Subcommittee also accepted the following state agency reports:

1. *Community Rivers and Streams Program: Fiscal Year 1995-96 Grant Program Report* by the Department for Local Government.
2. *1996 Environmental Indicators Program Report on Water Quality* by the Environmental Quality Commission.
3. *1996-97 Annual Report of the Kentucky Pollution Prevention Center.*

The Subcommittee visited the manufacturing facilities of Universal Fasteners, Inc. located in Lawrenceburg. The company has altered its manufacturing process, with the assistance of the Pollution Prevention Center, to avoid the generation of waste material. Subcommittee members were able to see the company's manufacturing process changes, which now save Universal Fasteners about \$280,000 a year.

For the third consecutive interim, the Subcommittee showcased school environmental education programs. This interim Georgetown Middle School in Scott County and Liberty Elementary in Oldham County were featured.

Finally, the Subcommittee reviewed and made recommendations on ten administrative regulations of the Office of the Petroleum Storage Tank Environmental Assurance Fund, eighteen administrative regulations of the Division of Water, and three regulations of the Division for Air Quality.

Subcommittee on Natural Resources

The Subcommittee met one time during the interim, as of November 30, 1997. The subcommittee considered nine administrative regulations, three regarding oil and gas, and six regarding fish and wildlife.

**REPORT OF THE 1996-97
INTERIM JOINT COMMITTEE ON
APPROPRIATIONS AND REVENUE**

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AND THE
1998 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

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INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

JURISDICTION: Matters pertaining to the executive budget and other appropriations of state moneys; the levying of state and local taxes, including school taxes; property tax rates and assessments; the state debt; revenue bond projects; veteran's bonus; claims upon the treasury; accounting of state funds by local officers; audit for state purposes; budget and financial administration; payment, collection, and refund of taxes; distribution and budgeting of state lottery proceeds.

COMMITTEE ACTIVITY

The Interim Joint Committee on Appropriations and Revenue has met eight times during the 1996-97 legislative interim, as of November 1, 1997, and was approved by the Legislative Research Commission to hold meetings in November and December to prepare for the Regular Session of the General Assembly.

At its first interim meeting, on July 25, 1996, the committee heard from the Governor about agency budgeted expenditure cuts, and how the state has a total of \$86 million in unobligated money to fund recommended capital projects that the state has already committed to fund.

The Consensus Forecasting Group updated members on revenue receipts for the fiscal year ending June 30, 1996, exceeding the consensus forecasting estimates made in December 1995, by \$67.6 million in additional revenue. Major contributors to Kentucky's general fund growth were the sales and use tax, individual income tax, lottery revenues, property tax, and several smaller taxes relating primarily to investment and inheritance accounts. The economic outlook projects some negatives, due to the phase-in of tax laws relating to private pensions, auto valuations, and the decline in the corporate income tax and coal severance tax receipts. The next result of tax reduction provisions is a lowering of the tax base throughout the phase-in period, which ends in FY 1999.

The committee also received an update on Empower Kentucky initiatives, with its opportunities for saving expenditures and for changing the way that Kentucky does business. Eighteen key processes have been identified as the initial points of target for a more focused effort.

The committee reviewed and approved Executive Reorganization Order 96-919, relating to the creation of three divisions in the Department of Higher Education Assistance Authority.

At its second meeting, on October 24, 1996, the committee received a comprehensive update on Empower Kentucky initiatives. A cabinet leadership team has been established to provide overall management, support, and coordination for the initiatives, and 200 employees from across the cabinets have been formed into 20 different teams. The teams are cross-functional teams that are looking at every aspect of each process to see whether services can be done more efficiently and more cost-effectively. The teams will then make recommendations to the leadership team. A legislative steering committee has also been formed to receive and review the final plans

for funding the prioritized recommendations. Enacted legislation requires a \$50 million recurring expense savings by FY 1998.

The committee reviewed and approved Executive Reorganization Order 96-1376, which transfers the duties and functions relating to debt issuance for local entities from the Office of the Controller, in the Finance and Administration Cabinet, to the Division of County and Municipal Accounting, in the Department of Local Government.

The committee also reviewed and approved Administrative Regulation 200 KAR 15:010, which relates to the formula for allocation of private activity bonds.

At its third meeting, February 27, 1997, the committee heard from the Governor's Office for Policy and Management and the Revenue Cabinet on the status of a Kentucky Supreme Court decision relating to the intangible personal property tax on corporate stock. The court has ruled that taxpayers who filed in a timely fashion should receive refunds, but since the decision was made, the plaintiff's attorneys filed a petition for a rehearing and for extension and modification of the ruling. The Revenue Cabinet will begin issuing refund checks when the litigation is finally resolved. The Revenue Cabinet's initial estimate is that the tax refund liability will be \$240 million, with a loss to the General Fund revenue base of approximately \$30 million.

The committee was also told about another tax liability issue. A December 1994 decision made by the Kentucky Supreme Court on the GTE unitary case, a corporate income tax case relating to permissible tax filing methods, was originally estimated to be \$50 to \$60 million. The total liability relative to the case today is about \$160 million. Ways to cover the refund liabilities were outlined for the committee.

At its fourth meeting, held on April 24, 1997, the committee received an update from the Consensus Forecasting Group. Because economic growth has been stronger than originally forecasted, and because General fund revenue growth exceeded expectations in the first three quarters of FY 1997, the General Fund revenue estimate has been revised to \$5,552.9 million, which is a surplus of about \$70 million. The sales and use tax, the individual income tax, the lottery, and the "other" category exceeded expectations, but the corporate income tax, coal severance tax, and property tax were revised downward. The phase-in of tax reductions, including elimination of the intangibles tax, will cost \$70 million off the top in FY 1998.

The committee also received an update about ongoing Empower Kentucky initiatives within the Revenue Cabinet. Four different projects in the Revenue Cabinet have been funded under Empower Kentucky: a vendor offset program, an officer assessment program, a bank levy program, and a tax gap program. These four programs are already bringing in additional revenue to the state.

The committee was updated on the tax liability from the GTE unitary refund case and the intangible tax refund case. The current amount owed under the GTE unitary refund case projected, through the end of April 1997, with interest, is estimated to be \$176 million. The tax liability relating to the intangible tax refund has been revised downward from \$240 million to \$183.5 million. The amount was revised downward because many of the claims filed were duplicate or invalid claims.

At its fifth meeting, on July 24, 1997, the committee received a report on year-end revenue receipts. For FY 1997, General Fund revenues exceeded the official consensus revenue estimate, done in April 1997, by \$107 million, an increase of 1.6 percent over FY 1996. This upward revision is attributed to good growth in the sales and use tax, the individual income tax, property taxes, lottery, and the "other" category. The corporation income tax experienced a growth of 2.8 percent during this period. The coal severance tax, however, has continued to decline, although the decrease is less than in FY 1996. Empower Kentucky initiatives are responsible for about \$3.7 million in revenue for FY 1997. Road fund receipts also experienced a growth of 2.2 percent from the previous year. For FY 1998, the General Fund forecast anticipates a growth rate of 1.5 percent. The phase-in of individual income tax cuts and inheritance tax cuts, as well as recent court decisions, will have their greatest marginal impact during FY 1998.

The committee received a preliminary report on year-end balances from the Governor's Office of Policy and Management. As of June 30, 1997, the total General Fund balance is \$284.1 million, which is greater than a May 1997 projection of \$252 million. The state also has the smallest lapse amount in recent history. At the end of this fiscal year, \$4 million in state agency debt service, and \$11 million from states agencies was lapsed. For FY 1998, the year-end balance is projected to be \$106 million, much greater than the May projection of \$15 million. Projections are greater because of Kentucky's continued strong economic growth and strong revenue growth. The drop from \$284.1 million in FY 1997, to \$106 million for FY 1998, reflects the adjustments for court liabilities, as well as the expenditures that were enacted during the special session on higher education. The state has also maintained \$200 million in the budget reserve trust fund.

The Revenue Cabinet updated the committee on the status of the refunds on the intangible tax court case. The attorneys for the plaintiffs have filed an injunction prohibiting the Revenue Cabinet from sending out refund checks until the issues of attorney fees and interest owed have been resolved. Those issues are before the Jefferson Circuit Court and the cabinet is waiting for a decision to be rendered.

The committee reviewed and approved Executive Reorganization Order 97-715, relating to reorganization of the Revenue Cabinet.

At its sixth meeting, on August 28, 1997, the committee was updated on Empower Kentucky. Empower Kentucky was funded \$103.4 million, and all initiatives, including unfunded programs, are continuing to move forward. Two projects were fully funded at the onset and have no further funding needs. Other projects received only limited funding, and it is estimated that it will require \$77.1 million to fully fund these projects. Empower Kentucky has already resulted in many achievements for the state. Implementation of processes in the Revenue Cabinet alone have already resulted in a savings of \$3.7 million for FY 1997.

At its seventh meeting, on September 25, 1997, the committee received an update on the state contribution for payment of health insurance premiums for teachers and state employees. The state contribution is \$185 for calendar year 1997, and \$194.50 for calendar year 1998, which will purchase a standard high single policy for every HMO plan that is offered, with the exception of one. For the next biennial budget, the cabinet is recommending that \$205 be allowed for 1999, and \$215 for calendar year 2000. The cabinet bases its health insurance contribution recommendations for the 1999-2000 biennial budget on medical CPI averages over the last four

to five years, which have increased by about 5 percent annually. The only indemnity plan offered is by Kentucky Kare, which has had the highest rate increase.

The committee considered and approved administrative regulation 103 KAR 15:050, relating to income tax filing dates and extensions; and administrative regulation 200 KAR 17:070, relating to the Drinking Water Revolving Fund.

At its eighth meeting, held on October 23, 1997, the committee heard from the Consensus Forecasting Group. A preliminary forecast is required by statute to be presented for the next biennium prior to a regular session of the General Assembly. Revenue receipts are up by 8.5 percent for the first quarter of FY 1998, as compared to the same time last year. With such a strong first quarter, only 1.2 percent growth is needed for the remainder of the fiscal year to achieve the current official estimate presented in May 1997. The current General Fund estimate has been revised upward by \$156 million for FY 1998. A slight downward adjustment was made for the sales and use tax for the first quarter, but this is expected to level out and stabilize. Both the individual and corporation income taxes were revised upward by \$60 million because of strong economic growth. Property tax was down because of larger than anticipated declines in intangible property tax receipts. General Fund growth is projected at 4 percent for FY 1999, and 4.9 percent for FY 2000. In addition, additional revenue is expected from the efforts of Empower Kentucky. The new revised forecast for FY 1998 to FY 1999 projects a growth of \$240 million between those two fiscal years. The base adjustment for FY 1999 to FY 2000 will be an additional \$311 million growth.

SUBCOMMITTEE ACTIVITY

The Interim Joint Committee on Appropriations and Revenue is organized into six budget review subcommittees. Their purpose is to review revisions to the enacted 1996-1998 budget, and to monitor the budgetary operations and programs of state government, as well as address agency budget needs for the 1998-2000 biennium.

Budget Review Subcommittee on Economic Development, Natural Resources, and Tourism

The Budget Review Subcommittee on Economic Development, Natural Resources, and Tourism has held seven meetings during the 1996-97 interim from October 1996 through October 1997.

The Subcommittee reviewed and recommended approval for requests for appropriation increase authority from the three cabinets under its jurisdiction. The increases by Cabinet and fiscal year are as follows:

FY 1996-97 Appropriation Increases

Cabinet	General Fund	Restricted Funds	Federal Funds
Economic Development		8,563	
Natural Resources	714,400	370,400	719,100
Tourism		2,010,000	839,330
Totals	714,400	2,388,963	1,558,430

FY 1997-98 Appropriation Increases

Cabinet	General Fund	Restricted Funds	Federal Funds
Natural Resources		3,303,500	1,940,700
Tourism		<u>3,149,500</u>	<u>981,500</u>
Totals		6,453,000	2,922,200

The Economic Development Cabinet provided a status report to the Subcommittee on the Regional Industrial Park Program and provided an overview of the Industrial Recruitment process. The Subcommittee also heard testimony from representatives of the Kentucky Technology Service program and the Kentucky Woods Products Competitive Corporation.

The Natural Resources Cabinet reported several times during the interim on the implementation of the electronic permitting system in the surface mining program, and other EMPOWER Kentucky initiatives under the Simplified Regulatory Services component. A meeting was held in September at the Department for Surface Mining for a demonstration of the computer system. Other topics presented by the Cabinet include the forestry inventory needs of the Commonwealth, initiatives to eliminate straight pipe sewage discharges into streams and rivers, and to assist counties in enforcing laws against illegal dumping.

The Subcommittee received testimony from the Tourism Development Cabinet regarding Park Revitalization Bond projects, the Advertising Campaign, the Jenny Wiley Trail Task Force, State Park Facilities within the Eastern Kentucky region and the Task Force on Funding for Wildlife Conservation.

Budget Review Subcommittee on Education

The Budget Review Subcommittee on Education has met seven times during the interim, including a joint hearing with the Finance and Management Issue Group of the Task Force on Public Education.

The Subcommittee has discussed the various areas relating to the state's elementary and secondary education programs, including its Community Education and School Facilities Construction Programs. The Subcommittee met jointly with the Finance and Management Issue Group of the Task Force on Public Education for a discussion relating to teacher compensation.

The Subcommittee met several times prior to the First Extraordinary Session of the General Assembly in June 1997, to discuss issues relating to Postsecondary education, including briefings from members of the Task Force on Post-Secondary Education, and the Kentucky Higher Education Assistance Authority (KHEAA).

The Subcommittee also reviewed 74 requests for interim appropriations increases, totaling approximately \$81.8 million, during the 1996-97 interim. These requests are as follows:

Interim Appropriation Changes

FY 1996-97

Cabinet	Restricted	Federal	Total	Total # Requests
Education, Arts, & Humanities	340,440	4,121,000	4,461,440	15
Department of Education	562,400	3,525,385	4,087,785	4
Workforce Development Cabinet	(1,990,400)	27,600,400	25,610,000	17
Higher Education	1,820,000	2,800	1,822,800	3
Totals - FY 1996-97	732,440	35,249,585	35,982,025	39

FY 1997-98

Cabinet	Restricted	Federal	Total	Total # Requests
Education, Arts, & Humanities	807,660	630,900	1,438,560	15
Department of Education	710,000	1,961,782	2,671,782	4
Workforce Development Cabinet	1,471,800	40,262,400	41,734,200	13
Higher Education	1,400,000	240,000		3
Totals - FY 1997-98	4,389,460	43,095,082	45,844,542	35
Grand Totals - 1996-97 Interim	5,121,900	78,344,667	81,826,567	74

*Includes Interim Appropriations Increases processed in June 1996

Budget Review Subcommittee on General Government, Finance & Public Protection

The Budget Review Subcommittee on General Government, Finance and Public Protection held six meetings during the interim. Significant issues and presentations included an overview of the Petroleum Storage Tank Environmental Assurance Fund by the Public Protection and Regulation Cabinet, an overview of the Department of Public Advocacy, and a presentation by the Department of Agriculture about the Department's Value Added Initiative Program.

The following appropriation increases/decreases were either approved by the subcommittee or were automatically approved because the subcommittee or the Appropriations and Revenue Committee did not meet.

<u>FY 1996-97</u>	<u>Number</u>	<u>FY 1997-98</u>	<u>Number</u>
205,114,400	23	258,701,200	18
General Funds	46	5,841,600	27
Restricted Funds	22	63,399,200	16
Federal Funds			

FY 1996-97

Cabinet	<u>General Fund</u>	<u>Restricted Funds</u>	<u>Federal Funds</u>
	General Government	210,200	258,545
	Agriculture	762,000	
Attorney General	Auditor of Public Accounts	826,200	204,900
Commission on Women			5,000
Human Rights Commission		37,500	
UPS Commonwealth	44,700		133,434
UPS County			30,500
	<u>General Fund</u>	<u>Restricted Funds</u>	<u>Federal Funds</u>
Cabinet			
Military Affairs	11,618,000		30,000,000
Personnel Board		3,000	
Local Government	70,000		
Miscellaneous Appropriations	22,428,200		
Kentucky Retirement Systems		443,400	
Empower Kentucky	168,411,300		
Kentucky Kare		20,800	
Finance and Administration			
General Administration	(70,000)	193,000	38,962,300
Administration	110,000	1,112,500	
Facilities Management	702,200	(10,669,000)	
Information Systems		10,669,000	
County Costs	1,500,000	100,000	
Public Protection & Regulation			
Housing, Buildings & Construction		346,000	
Public Advocacy		340,000	144,400
Public Service Commission			78,000
Alcoholic Beverage Control		292,800	
Insurance		2,902,600	
Labor Cabinet			
General Administration		56,200	
Workplace Standards		4,219,000	370,900
Workers' Claims		1,978,100	
Workers' Comp. Funding Comm.		6,253,000	
Boards and Commission			
Counselors		5,000	
Engineers and Land Surveyors		75,000	
Landscape Architects		10,000	

Nursing	168,600
Nursing Home Administrators	19,700
Optometric Examiners	55,000
Physical Therapy	45,000
Psychology	11,500
Real Estate Appraisers	53,700
Real Estate Commission	
Education and Recovery	35,000

Cabinet	<u>General Fund</u>	<u>Restricted Funds</u>	<u>Federal Funds</u>
Speech Pathologist		11,300	
Veterinary Examiners		4,700	
Occupational Therapy		4,200	

FY 1997-98

Cabinet	<u>General Fund</u>	<u>Restricted Funds</u>	<u>Federal Funds</u>
General Government			
Agriculture		95,000	872,000
Attorney General	300,000		199,100
Commission on Women			5,000
Executive Branch Ethics		8,000	
UPS Commonwealth	134,100		347,100
UPS County	51,100		70,000
Military Affairs	5,098,000		26,000,000
Personnel Board		7,900	
Miscellaneous Appropriations	241,591,000		
Finance and Administration			
General Administration	9,927,000	635,000	34,154,600
Administration		512,000	
Facilities Management		80,600	
County Costs	1,600,000	100,000	
Personnel Cabinet			
Life Insurance		1,165,000	
Public Protection & Regulation			
Housing, Buildings & Construction		582,100	
Public Advocacy		1,445,900	72,200
Public Service Commission			102,000
Alcoholic Beverage Control		42,000	
Insurance		588,000	
KY Racing Commission		125,000	

Labor Cabinet

Workplace Standards

577,200

Boards and Commissions

Alcohol and Drug Counselors

56,800

Art Therapist

6,400

Nursing

391,900

**Budget Review Subcommittee on
Human Resources**

The Budget Review Subcommittee on Human Resources met seven times during the interim and may have additional meetings prior to the 1998 Session.

Per 1996 House Bill 379, budget revisions for the Cabinet for Families and Children and the Cabinet for Health Services resulted in \$180 million in FY 1996-97 above the Enacted Budgets. Included are: a) \$45 million General Fund dollars, of which \$38.4 million is Family Youth Resource Center dollars budgeted in the Department of Education; b) \$53.7 million Restricted Funds, of which \$43 million is Medicaid-Administration (\$16 million) and Medicaid-Benefits (\$27 million); and c) \$81.4 million Federal Funds, of which \$63.2 million is Medicaid-Benefits.

As of October, 1997, budget revisions for FY 1997-98 resulted in \$179.4 million above the Enacted budgets. FY 1997-98 also includes the transfer of Juvenile Justice to the Justice Cabinet as follows: \$36.1 million General Fund dollars, \$4.9 million Restricted Funds, and \$17.6 million Federal Funds.

The net effect on each department is as follows:

	FY 1996-97	FY 1997-98
	as of 10/97	
Cabinet for Families and Children (CFC)	\$1,357,100	\$1,550,000
Administration and Program Support	\$38,621,800	\$39,550,000
Family Resource and Youth Service Centers (FRYSC)		
Social Services		
FY 98 includes \$58.6 million transfer to	\$1,128,000	(\$1,156,500)
Justice and \$50.4 million additional dollars		
Social Insurance-Administration		
Includes a) In FY 97, +\$12.4 million and in FY 98,		
+\$26.6 million to transfer Disability Determinations	\$16,510,100	\$38,419,500
from DPH; in		
FY 98, -\$8,019,200	\$6,029,200	(\$1,200,000)
Social Insurance-Benefits	\$63,646,200	\$ 68,613,800
Total CFC		
Note: Not CFC increase, excluding FRYSC and	\$12.6 million	\$60.1 million
reorganizations (DD & Justice)		

	FY 1997-98
<u>FY 1996-97</u>	<u>As of 10/97</u>

Cabinet for Health Services (CHS):

Medicaid-Administration	
FY 98 includes \$11.1 million additional Restricted	
Funds and \$11.1 million reduced Federal Funds	
Medicaid-Benefits	18,912,000
Mental Health/Mental Retardation	1,677,300
Commission for Children with Special Health Care	
Needs	
Health Services/Public Health (DPH)	
In FY 97, +\$4 million additional dollars and -	
\$12.4 million Disability Determination	
reorganization transfer to DSH; In FY 98, +\$3.6	
million additional dollars and -\$26.6 million	
Disability Determinations transfer.	
Certificate of Need (CON)	\$110,755,300
Total CHS	
	\$179,369,100
Total CFC and CHS	
	\$180,063,100

Most meetings included discussions/presentations related to the Medicaid program. Topics included were: eligible growth projections; the Medicaid Section 1115 waiver (Partnerships/Managed Care); Medicaid Partnership contracts; Unisys and reports availability; Fraud and Abuse; EPSDT (Early and Periodic Screening, Diagnosis, and Treatment); DSH payments to UK and UL; ACCESS, Behavioral Medicaid Waiver; CON long-term care beds and Medicaid's reimbursement rates; Physician/Dentists Medicaid settlement; Medicaid transportation waiver; KCHIP (Kentucky's Children's Health Insurance program); and Home and Community Based Waiver Services.

Other topics included: FY 1995-96 General Fund Lapses; FY 1996-97 Year-End Account Balances; Impact of Federal Welfare Reform changes on Disability Determinations cases, such as alcohol and drug disabilities; Social Worker positions; Social Services Block Grant (SSBG) and the DSS Budget Deficit; Family Preservation; Local Health Departments; Welfare Reform update; Commission for Handicapped Children's personnel cap; and Empower Kentucky.

**Budget Review Subcommittee on
Justice, Corrections And Judiciary**

The Budget Review Subcommittee on Justice, Corrections, and Judiciary met eight times during the 1996-97 Interim. The first subcommittee meeting was a joint meeting held with the Interim Joint Committee on Judiciary, for the purpose of preparing a report on the cost impact of House Bill 117, pertaining to Juvenile Justice. The remaining seven regular subcommittee meetings consisted of the following topics: staff overview of the FB 1996-98 Judicial Branch and Justice Cabinet Budgets; discussion of the Department of Juvenile Justice budget; Department of Corrections' inmate population and bed needs; Department of Corrections Restricted Agency Revenue accounts; current Division of Probation and Parole programs; alternatives to

incarceration programs; potential FB 1998-2000 salary improvement plans, staffing level increases, and funding needs, and; review of flowcharts depicting statutory functions/processes within the Justice Cabinet. Discussions related to the Judicial Branch Budget included Restricted Agency Revenue accounts; use allowance payments, county court projects and cost overruns, fiscal impact of HB 117 on FB 1998-2000 funding needs; and views on current and/or proposed alternative sentencing practices in Kentucky.

The Department of Corrections consists of Corrections Management, Adult Institutions, Community Services and Local Facilities, and the Local Jail Support Program appropriation units. In the current biennium, 16 appropriation increase requests were approved in FY 1996-97 (\$841,500 in Restricted Funds and \$966,900 in Federal Funds), totaling \$1,808,400. In fiscal year 1997-98, 10 appropriation increase requests have been approved to date (\$140,000 in Restricted Funds and \$1,171,700 in Federal Funds) totaling \$1,311,700. These appropriations increase requests are summarized by appropriation unit below:

Department of Corrections

<u>Appropriation Unit</u>	<u>FY 1996-97</u>		<u>FY 1997-98</u>	
	<u>Restricted</u>	<u>Federal</u>	<u>Restricted</u>	<u>Federal</u>
Corrections Management	220,500	527,400	140,000	565,700
Number of AI Requests	(3)	(3)	(1)	(4)
Community Services and Local Facilities	150,000	86,800		172,800
Number of AI Requests	(1)	(3)		(2)
Adult Institutions	471,000	352,700		433,200
Number of AI Requests	(4)	(2)		(3)
Total By Fund Source	841,500	966,900	140,000	1,171,700
				0
Total No. of AI Requests By Fund Source	(8)	(8)	(1)	(9)

Justice Operations

Justice Operations consist of the Departments of Juvenile Justice, Criminal Justice Training, State Police and Justice Administration (Office of the Secretary). The following table summarizes the appropriation adjustments that were approved during the interim period to date:

<u>Appropriation Unit</u>	<u>FY 1996-97</u>		<u>FY 1997-98</u>	
	<u>Restricted</u>	<u>Federal</u>	<u>Restricted</u>	<u>Federal</u>
Justice Administration		1,193,000	778,100	7,000,000
Number of AI Requests		(2)	(2)	(1)
Department of Juvenile Justice				
Number of AI Requests				
State Police	1,583,000			
Number of AI Requests	(1)			

Department of Criminal Justice	596,000		1,392,200	
Training				
Number of AI Requests	(3)		(3)	
Total By Fund Source	2,179,000	1,193,000	2,170,300	7,000,000
Total No. of AI Requests By Fund Source	(4)	(2)	(5)	(1)

Budget Review Subcommittee on Transportation

The Budget Review Subcommittee on Transportation met nine times during the 1996-97 interim. Discussion at these meetings centered around several topics. Included in those discussions were the cost to the Transportation Cabinet for flood damage to highways around the state and expenditures eligible for reimbursement from the Federal Emergency Management Administration. Other topics discussed were the status and content of the new federal highway bill, the source and uses of the revenues appropriated to the Transportation Cabinet, and the coordination of public transportation activities in Transportation and other governmental agencies. Lastly, the subcommittee reviewed the expenditures of the district offices and all maintenance activities. The status of the Six-Year Road Plan Information System was also reviewed by the subcommittee. The subcommittee reviewed and recommended for approval six appropriation increases in FY 1996-97, and five in FY 1997-98, to date. The following table summarizes those actions:

Fiscal Year 1996-97

<u>Appropriation Unit</u>	<u>Enacted</u>	<u>Revision</u>	<u>Revised Appropriation</u>
Vehicle Regulation			
Restricted	2,217,900	714,900	2,932,800
Highways			
Restricted	50,028,800	24,266,500	74,295,300
Federal	460,408,800	1,424,800	461,833,600
Air Transportation			
Federal	14,100	300,000	314,100

Fiscal Year 1997-98

<u>Appropriation Unit</u>	<u>Enacted</u>	<u>Revision</u>	<u>Revised Appropriation</u>
Highways			
Restricted	10,322,400	4,667,800	14,990,200
Federal	336,047,400	4,957,800	341,005,200
Road	505,706,500	10,361,300	516,067,800
Air Transportation			
Federal	14,300	281,600	267,300

**REPORT OF THE 1996-97
INTERIM JOINT COMMITTEE ON
BANKING AND INSURANCE**

**Sen. Dan Seum, Co-Chair
Rep. James Bruce, Co-Chair**

Sen. Charles Borders
Sen. Tom Buford
Sen. Paul Herron
Sen. Richard Roeding
Sen. Ernesto Scorsone
Sen. Elizabeth Tori
Rep. Sheldon Baugh
Rep. Brian Crall
Rep. Robert Damron
Rep. Charles Geveden
Rep. Porter Hatcher
Rep. Billy Polston
Rep. Arnold Simpson
Rep. James Zimmerman

Sen. Fred Bradley
Sen. Lindy Casebier
Sen. Robert Jackson
Sen. Albert Robinson
Sen. Tim Shaughnessy
Rep. John Adams
Rep. Stanton Cave
Rep. Ron Crimm
Rep. Herbie Deskins
Rep. James Gooch
Rep. Marshall Long
Rep. Steven Riggs
Rep. Roger Thomas

LRC STAFF: Greg Freedman, Judy Fritz, and Jamie Griffin

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1998 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP

SUBCOMMITTEE ON DEPARTMENT OF INSURANCE FEES

Rep. Steve Riggs, Chair

Sen. Richard Roeding
Sen. Elizabeth Tori
Rep. Ron Crimm
Rep. James Gooch
Rep. Marshall Long

Sen. Dan Seum
Rep. Stan Cave
Rep. Robert Damron
Rep. Porter Hatcher, Jr.

Sen. Tom Buford, Ex-Officio

Rep. James Bruce, Ex-Officio

INTERIM JOINT COMMITTEE ON BANKING AND INSURANCE

JURISDICTION: matters pertaining to banking; banks and trust companies; petty loan companies; building and loan associations; credit unions; investment companies; industrial loan corporations; securities; Blue Sky Law; mortgage guaranty insurance; assessment and cooperative insurance; fraternal benefit societies; hospital service corporations; burial associations; medical and dental service corporations; life, accident, indemnity and other forms of insurance; stock and mutual insurance companies; banking and insurance aspects of the Uniform Commercial Code; interest and usury; pawnbrokers; private credit; consumer credit; sale of checks; installment sales contracts; legal investments; principal and income.

COMMITTEE ACTIVITY

The Interim Joint Committee on Banking and Insurance has held fourteen meetings during the 1996-97 Interim.

At its first meeting, held on August 27, 1996, the Committee discussed the status of health insurance with the Commissioner of the Department of Insurance. The Commissioner told the Committee that consumers had a very limited choice in the individual market, since only five carriers were offering individual policies. He said as of August 19, 1996, ten associations that had not previously offered group health insurance to members had applied for approval to offer group health insurance coverage to its members. The Commissioner noted that the association exemption in 96SB343 could erode some of the progress made under health care reform. He told the Committee that members of the Health Insurance Advisory Council were appointed on June 19, 1996. The Commissioner said that if the reforms under 94HB250 and 96SB343 were repealed and the provisions of the federal Health Insurance Portability and Accountability Act of 1996 were applicable in Kentucky, it would put the Kentucky health insurance market into a spin.

The Committee was addressed by the Commissioner of the Department of Financial Institutions at its meeting held in Louisville on September 9, 1996. The Commissioner provided an annual update on banking in Kentucky. The Commissioner said that of the 275 banks in the state, 204 are state-chartered. He said that since 1992, fourteen new banks have been chartered to operate in Kentucky; six of those were chartered in 1996. Two challenges facing the Department of Financial Institutions are interstate branching and protection of the viability of the state charter.

The Committee met on November 26, 1996 to discuss the regulation of insurance activities of banks in Kentucky. The Committee met with representatives of the banking and insurance industries and the commissioners of the departments of insurance and financial institutions. In March, 1996, the U.S. Supreme Court ruled that a federal law, which allows national banks in small towns of 5000 or fewer inhabitants to sell insurance, supersedes a state law that prohibits such activity by banks. In August, 1996, the Commissioner of the Kentucky Department of Financial Institutions issued a parity letter that allows state-chartered banks to apply to the Commissioner of Insurance to engage in the insurance activities allowed national banks under federal law. In September, 1996, the Commissioner of the Department of Insurance issued an emergency administrative regulation to establish the procedure for application by banks to be licensed as insurance agents. At its November meeting, the Committee discussed changes in the administrative regulation being proposed by the Department of Insurance. Representatives of

the insurance industry spoke in support of the emergency regulation without changes, stressed the need for regulation to remain at the state level, and expressed the need for stringent regulation to prevent tying arrangements. The banking industry told the Committee that the regulation protects consumers and competition, while resisting efforts to protect markets. It further testified that it is in everyone's ultimate best interests for banks to sell insurance and that the entry of banks into the insurance marketplace will result in lower rates and improved service.

The Committee met on February 25, 1997, and received from the Commissioner of Insurance a progress report on the two task forces reviewing the health insurance laws. The Commissioner also spoke about the financial condition of Kentucky Kare, as did the Deputy Secretary of the Personnel Cabinet and a representative of the Attorney General. Representatives of Anthem Blue Cross/Blue Shield and the Kentucky Hospital Association spoke on the decision by Anthem to reduce payments to hospitals. Representatives of the Kentucky Bankers Association, Accordia, and the Kentucky Home Builders Association spoke on health insurance reform. The Committee adopted a resolution requesting the Governor to call an Extraordinary Session of the General Assembly to consider health insurance issues facing Kentuckians.

On March 25, 1997, the Commissioner of Insurance discussed a regulation that set forth requirements for open enrollment held by health maintenance organizations. A representative of Farm Bureau, two Farm Bureau policyholders, and a spokesman for State Association of Life Underwriters addressed the need for health insurance reform. On April 22, 1997, the Attorney General spoke to the Committee about the selling of non-profit hospitals and patient protections. Representatives of the Kentucky Medical Association, Kentucky Hospital Association, and the Kentucky Pharmacists Association told the Committee they endorsed the proposals. A member of the Consumer Task Force spoke on her personal experiences as a purchaser of insurance. On May 20, 1997, the Commissioner of Insurance spoke on a regulation concerning health insurance data, and the Committee voted in approval of the regulation.

The Committee held its eighth meeting on June 24, 1997, and heard from a member of the Consumer Task Force for Individual Health Insurance. The Commissioner of Insurance spoke on a regulation that increased fees payable to the Department of Insurance. The Committee deferred action on the regulation. Representatives of Republic Bank and the Kentucky Bankers Association spoke on the State Treasurer's treatment of certificates of deposit as abandoned property. On July 15, 1997, the Subcommittee on Department of Insurance Fees reported that the Commissioner of Insurance had appeared and withdrawn the regulation of fees. The Commissioner confirmed this action in an appearance before the Committee. A representative of Hamilton Mutual Insurance spoke on the changes needed in automobile insurance laws.

On August 26, 1997, the Committee discussed health insurance reform with representatives of the Industry Task Force on Health Insurance and the Consumer Task Force. At its September 8, 1997 meeting, held in Louisville, the Committee again discussed health insurance reform with representatives of the Kentucky Bankers Association and the Farm Bureau. The Committee also discussed with representatives of the Kentucky Bankers Association the State Treasurer's treatment of unclaimed property.

At its twelfth meeting of the interim, held on October 28, 1997, the Committee discussed no-fault motor vehicle insurance with a former Georgia Insurance Commissioner and the President-elect of the Kentucky Academy of Trial Attorneys. The Committee met on November

25, 1997, to discuss prefled legislation pertaining to securities and check cashing, and held a final interim meeting in December.

**REPORT OF THE 1996-97
INTERIM JOINT COMMITTEE ON
ECONOMIC DEVELOPMENT AND TOURISM**

**Senator Glenn Freeman, Co-Chair
Representative Tom Kerr, Co-Chair**

Rep. John Adams	Rep. Gross Lindsay
Rep. Royce W. Adams	Rep. Marshall Long
Rep. Scott Alexander	Rep. Thomas McKee
Rep. Woody Allen	Rep. Vernon Miniard
Rep. Eddie Ballard	Sen. Virgil Moore
Sen. Walter Blevins	Rep. Richard Murgatroyd
Sen. David Boswell	Rep. Lonnie Napier
Rep. Mike Bowling	Rep. Fred Nesler
Rep. Lawrence Brandstetter	Rep. Ruth Ann Palumbo
Rep. Kevin Bratcher	Rep. Thomas Pope
Rep. Dwight Butler	Rep. Marie Rader
Rep. Brian Crall	Rep. Chris Ratliff
Rep. Jesse Crenshaw	Rep. Steven Riggs
Rep. Drew Graham	Sen. Richie Sanders
Rep. H. Gippy Graham	Rep. William Scott
Rep. J.R. Gray	Sen. Tim Shaughnessy
Rep. Jodie Haydon	Rep. Katie Stine
Rep. Charlie Hoffman	Sen. Robert Stivers
Rep. Kathy Hogancamp	Rep. John Vincent
Rep. Dennis Horlander	Rep. Charles Walton
Sen. Bob Jackson	Sen. David Williams
Rep. Susan Johns	Sen. Gex Williams
Sen. Robert Leeper	

LRC STAFF: Mary Yaeger, CSA, John Buckner, Kim Wilson, Linda Kubala, and
Ellen Steinberg

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1998 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

INTERIM JOINT COMMITTEE ON ECONOMIC DEVELOPMENT AND TOURISM

JURISDICTION: matters pertaining to commerce, industry, and economic and industrial development not specifically assigned to another committee; economic development planning, international trade and investment; investment companies and industrial loan corporations as they relate to economic and industrial development; recruitment of business and industry; small business matters relative to economic and industrial development; financing of business and industrial development; business regulatory matters, including the Uniform Commercial Code, relative to economic and industrial development; worker training; technology development and application; chambers of commerce; convention centers and publicly owned exhibition and parking facilities; arts and arts exhibition facilities; advertising related to tourism development; state, interstate, and national parks and historic sites; travel promotion, advertising and developments; state, interstate, and national parks and historic sites; fish and wildlife; small business matters relative to tourism development; hotels and motels generally; hotel and restaurant regulations; billboards; entertainment establishments; campgrounds; the Tourism Cabinet.

COMMITTEE ACTIVITY

The Interim Joint Committee on Economic Development and Tourism held six meetings since the beginning of the 1996-97 Interim: one meeting in September 1996 and five meetings in 1997. The committee met fewer times this Interim, in part due to the chairs' and members' involvement in the three special sessions, particularly the workers' compensation special session, where the Senate combines the Economic Development and Labor committees.

Although the LRC created a Task Force on Economic Development as a subcommittee of the joint committee, the Task Force was not activated; instead all economic development matters were handled by the full committee.

During the Interim, the committee reviewed three reorganization plans: Executive Order 96-930, relating to the reorganization and establishment of the Division of Sales and Division of Security and Traffic Control, Kentucky State Fair Board; Resolution No. 96-1, a resolution of the Kentucky Economic Development Partnership, relating to the reorganization and establishment of the International Trade Division within the Department of Community Development, Cabinet for Economic Development; and Resolution No. 97-1, a resolution of the Kentucky Economic Development Partnership, relating to the reorganization and establishment of the Office of Coal County Development within the Office of the Secretary, Cabinet for Economic Development. The committee recommended confirmation of the first two reorganization orders by the 1998 Kentucky General Assembly and took no action on the third.

Signage

The issue of sufficient numbers of billboards alongside interstate corridors was a major subject of discussion during this interim. At the first meeting, September, 19, 1996, the Secretary of the Tourism Cabinet discussed the inadequacy of highway signage. The issue of insufficient outdoor advertising for tourism attraction was discussed at three more meetings throughout the

interim. Concerned legislators noted that with the loss of manufacturing jobs, particularly in rural areas, tourism-related business is more important in providing jobs to Kentuckians.

Those representing the tourism-related businesses spoke to oppose existing state laws and regulations governing outdoor signage, which they find too restrictive. These speakers represented the Kentucky Tourism Council, the Bowling Green Convention and Visitors Bureau, the Kentucky Hotel/Motel Association, the Outdoor Advertising Association, and the West Kentucky Corporation.

The Department of Transportation representatives spoke at several meetings, pointing out that they must implement certain restrictions in regard to highways that are constructed and maintained with federal aid. Concerning the issue of losing federal highway funds, the committee asked a representative of the Federal Highway Administration to explain federal revenues owed Kentucky. The Right-of-Way Program Regional Manager explained that the federal government still owed Kentucky \$4.3 million, due to the implementation of the 1961 Bonus Act program, but that Congress has not allocated funds for this program since 1983.

A representative of Scenic America explained that the purpose of the billboard laws is to preserve and enhance the natural scenic beauty of our highways and that tourism has continued to prosper under existing restrictions. She supported alternatives to highway billboards, such as the Fifth Logo program sponsored by the state.

Additionally, the committee voted to request an Attorney General's opinion concerning the state's authority to control the content of billboard advertising. The Attorney General's response stated that it would be unconstitutional to regulate the content of billboard advertising. The state may not adopt regulations that tell the industry it can only have tourism related topics on them. They cited *Metromedia, Inc. v. City of San Diego* (453 US 490), which is a U.S. Supreme Court case addressing regulations that limit the types of speech that can be located on variable message signs. Specific safety considerations have to be shown before you can limit the types of speech that appear on billboards or other signs across the state. This opinion does not affect the state's logo signage that is on state right-of-way, nor does the opinion address whether the federal government could limit the content of signs within the federal right-of-way.

Finally, the committee reviewed the area of highways that might be considered for additional billboards under an amendment to the Bonus Act called the Cotton amendment.

The Regional Industrial Park Program

At the fifth interim meeting, the Secretary of the Economic Development Cabinet explained the Cabinet's newly implemented program, the Regional Industrial Park Program. This program is funded by the Local Government Economic Development Fund, which is made up of coal severance revenues that the state receives (a portion is returned to coal producing counties). As the law states, eligible industrial projects in the coal counties may be approved for funds offsetting the costs of the real estate and workforce training. Funds are allocated to a single county pool and to a multi-county pool. Participation in the Regional Industrial Park Project would require counties to expend their single county allotment before expending the multi-county funds. Coal counties were invited to join together to identify property that they would like to see

developed and marketed. Nine proposals resulted from this effort, six from eastern Kentucky counties and three from western Kentucky counties.

While some legislators were supportive of this regional approach, other members expressed frustration that coal counties would be forced to use their allocation of coal severance funds but would not benefit from the industrial park, due to distance from the park. One suggested more local control in how the LGEDF program operates and how revenues are expended.

Other

The committee heard a presentation by the President of Keeneland Thoroughbred Association and the President and Publisher of the Lexington Herald-Leader concerning the desire to acquire the Calumet Trophies for the Kentucky Horse Park. The Committee passed a motion "to draft a resolution urging the Governor to research state government to find funding to purchase or temporarily provide funds to meet the courts' deadlines, so that the trophies could be purchased."

Presentations on programs within or sponsored by the Tourism Cabinet included: a progress report on the Cabinet's strategic planning effort and implementation of the 1996 Regular Session House Bill 815, an act creating a tourism business development incentive program; the procurement process for contracts at state parks, particularly the food service contract at the Kentucky Horse Park; a report by the legislative Task Force on Funding for Wildlife Conservation (HCR 76); and a presentation by the Program Review and Investigations' staff on the State Park Marinas.

Presentations were made on programs within or sponsored by the Cabinet for Economic Development, including: the establishment of a manufacturing networking program to assist small and medium sized companies to enter into collaborative efforts with other companies for the purpose of mutual problem solving; the Kentucky Technology Service, an independent service funded by the state and the federal government to assist small to medium sized businesses with problems of management, productivity and technological advances; the International Trade Office and collaboration with the Department of Agriculture on the Mexican Trade Office; Growth Assessment Teams, and the target industry analysis and profiles, sponsored by the Cabinet and the Kentucky Industrial Development Council.

Other agenda items included a presentation by Governor Paul Patton on his postsecondary education plan as part of the May, 1997, Special Session on Higher Education; a welfare reform update by the Cabinets for Workforce Development and Economic Development; a report by the Commissioner of the Department of Agriculture and the Executive Director of the Office for Agricultural Marketing and Product Promotion; and a report of the USDA National Commission on Small Farms, by the Kentucky member, who emphasized the need for sustaining Kentucky communities.

The prefiled bill drafts are:

- 98 RS BR 221, which creates the Kentucky Investment Fund that authorizes tax credits for individual investors in privately operated venture capital funds; and

- 98 RS BR 35, which allows those very poor rural counties whose unemployment figures do not adequately represent the real level of unemployment to be eligible for the Kentucky Rural Economic Development Authority program.

**REPORT OF THE 1996-97
INTERIM JOINT COMMITTEE ON
EDUCATION**

**Senator Lindy Casebier, Co-Chair
Senator Tim Shaughnessy, Co-Chair
Representative Freed Curd, Co-Chair**

Rep. Scott Alexander
Sen. Benny Ray Bailey
Rep. Joe Barrows
Rep. Joe Clarke
Rep. Jack Coleman
Rep. Barbara Colter
Rep. H. "Gippy" Graham
Sen. Ernie Harris
Sen. Nick Kafoglis
Sen. David Karem
Rep. Tom Kerr
Rep. Mary Lou Marzian
Sen. Vernon McGaha
Rep. Vernon Miniard

Rep. Harry Moberly, Jr.
Rep. Richard Murgatroyd
Sen. Gerald Neal
Rep. Frank Rasche
Rep. Tom Riner
Sen. Ernesto Scorsone
Rep. Charles Siler
Rep. Dottie Sims
Rep. Kathy Stein
Sen. Robert Stivers
Rep. Mark Treesh
Rep. Charles Walton
Sen. Jack Westwood
Sen. Gex Williams

LRC STAFF: Sandra Deaton, Ethel Alston, Bonnie Brinly, Audrey Carr,
Penny Dutton, and Lora Hawkins.

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1998 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP

SUBCOMMITTEE ON GOVERNANCE AND FINANCE

Sen. Gerald Neal, Co-Chair

Rep. Joe Clarke, Co-Chair

Rep. Joe Barrows

Rep. Jack Coleman

Sen. Ernie Harris

Rep. Vernon Miniard

Rep. Richard Murgatroyd

Rep. Mark Treesh

Senator Lindy Casebier, Ex-Officio

Senator Tim Shaughnessy, Ex-Officio

Representative Freed Curd, Ex Officio

SUBCOMMITTEE ON POSTSECONDARY EDUCATION AND THE TEACHING PROFESSION

Sen. Ernesto Scorsone, Co-Chair

Rep. Mary Lou Marzian, Co-Chair

Rep. Scott Alexander

Sen. Benny Ray Bailey

Rep. Tom Riner

Rep. Charles Siler

Rep. Dottie Sims

Rep. Kathy Stein

Sen. Robert Stivers

Rep. Charles Walton

Sen. Gex Williams

Senator Lindy Casebier, Ex-Officio

Senator Tim Shaughnessy, Ex-Officio

Representative Freed Curd, Ex-Officio

SUBCOMMITTEE ON STUDENTS AND CURRICULUM

Sen. David Karem, Co-Chair

Rep. Frank Rasche, Co-Chair

Rep. Barbara Colter

Rep. H. "Gippy" Graham

Sen. Nick Kafoglis

Rep. Tom Kerr

Sen. Vernon McGaha

Rep. Harry Moberly

Sen. Jack Westwood

Senator Lindy Casebier, Ex-Officio

Senator Tim Shaughnessy, Ex-Officio

Representative Freed Curd, Ex Officio

INTERIM JOINT COMMITTEE ON EDUCATION

JURISDICTION: Matters pertaining to elementary, secondary and postsecondary education; the Kentucky Board of Education; the Department of Education; the powers and duties of local boards of education; conduct of schools; attendance; state support of education; the operation of school districts; teachers' qualifications and certification; curriculum; teachers' retirement; school employees; pupil transportation; school property and buildings; the Education, Arts and Humanities Cabinet; the Workforce Development Cabinet; state universities and colleges; community colleges; and independent universities and colleges.

The following agencies are under the jurisdiction of this Committee: the Council on Postsecondary Education; the Education, Arts and Humanities Cabinet; the Education Professional Standards Board; the Kentucky Board of Education; the Kentucky Community and Technical College System Board; the Kentucky Higher Education Assistance Authority; the Kentucky Institute for Education Research Board; the Office of Education Accountability; the School Facilities Construction Commission; and the Workforce Development Cabinet.

COMMITTEE ACTIVITY

During the 1996-97 interim, the Joint Committee on Education held twelve meetings prior to October 31, 1997. With the approval of the Legislative Research Commission, it met in November and December, primarily to receive the final reports of the Task Force on Public Education and the Task Force on Developmental Learning Programs at Jefferson Community College for the University of Louisville.

The Committee was organized into three subcommittees: Governance and Finance; Postsecondary Education and the Teaching Profession; and Students and Curriculum. Following is a summary of activity of the full Committee and each subcommittee.

Major topics before the Interim Joint Committee on Education were the Kentucky Instructional Results Information System (KIRIS), including an overview, a report of the 1996 Kentucky School and district accountability results, the removal of the performance events from the accountability index, and the Office of Education Accountability's review of the contract to provide the performance events; the 1996 National Education Summit; school-based decision making; the Kentucky Education Technology System; adult literacy in Kentucky; classified employees' retirement benefits; minimum high school graduation requirements; exceptional children's programs; the Support Education Excellence in Kentucky (SEEK); the School Facilities Construction Commission; the Commonwealth Institute for Parent Leadership; school safety; and reports of the Task Force on Postsecondary Education, the Task Force on Public Education, and the Task Force on Developmental Learning Programs at Jefferson Community College for the University of Louisville.

As a result of its review of the removal of the performance events from the accountability index, the committee requested the Office of Education Accountability and the Cabinet for Finance and Administration to review the performance of Advanced Systems in Measurement and

Evaluation, Inc., to determine whether the company had met the requirements of the contract to provide performance events for the Kentucky Instructional Results Information System. As a result of their review, the agency representatives recommended that a more thorough management audit be conducted. The committee agreed to request LRC to issue a request for proposals to secure a firm to conduct a management audit of the contract.

A two-day meeting was held prior to the 1997 Special Session of the General Assembly on postsecondary education to review the work of the Task Force on Postsecondary Education and to review "An Agenda for the 21st Century: A Plan for Postsecondary Education."

In performing its statutory legislative oversight responsibilities, the Committee reviewed 60 administrative regulations under the review process established in KRS Chapter 13A. All the administrative regulations were approved.

Subcommittee on Governance and Finance

The Subcommittee on Governance and Finance conducted six meetings during the 1996-97 Interim and considered the following issues.

Rewards and Sanctions

Representatives of the Kentucky Department of Education, the Kentucky Education Association, the Kentucky Education Support Personnel Association, the Kentucky Association of School Administrators, and the Kentucky School Boards Association appeared before the subcommittee to discuss the rewards and sanctions for successful schools in Kentucky's system of accountability.

Most agreed that rewards and sanctions are the most visible signal of the General Assembly's commitment to the accountability system, but teachers have not been motivated by cash rewards. Cash rewards are viewed as divisive and as jeopardizing the goals that certified and classified staff work to achieve. It was suggested that rewards can be made more effective by addressing three questions: 1) Who should vote on the disbursement of rewards; those faculty currently employed or those who were employed during the years the reward was earned? 2) Should classified staff be included in the decision making process? and 3) How should the cash reward be spent?

The KEA adopted the position that rewards as a motivator for improved instruction is an inappropriate use of money and suggested the allocation should be used to fund two additional professional development days for each educator.

Transportation

Department of Education staff reported that approximately 9,000 school buses transport 450,000 students each day and cover 102 million miles annually. In 1996-97, \$180 million was spent on transportation. The state reimbursement to local school districts was about \$161 million and local school districts contributed \$18 to \$20 million.

A representative of the Transportation Cabinet reported on the reimbursement program for transporting nonpublic school students. The General Assembly appropriated \$2 million to reimburse county fiscal courts that fund transportation of nonpublic school students. Funding was prorated among the 20 participating counties and reimbursements ranged from \$4,400 in Union County to \$419,000 in Jefferson County.

Home Schools and Pupil Attendance

Representatives of the home school associations and the directors of pupil personnel formed a task force in March, 1997. The task force developed a draft document entitled, "Home School Information Packet" that details the roles of the Kentucky Department of Education (KDE) and the Director of Pupil Personnel, and provides guidelines for home school verification, resources, and record keeping techniques. The task force believes there is no need for legislation if the document is followed and cooperation and understanding is improved. In 1995, the KDE reported 4,533 home schoolers in Kentucky and in 1996, 7313 students.

The panel made the following suggestions for dropout prevention: repeal the provision in KRS 159.010 requiring 60 days notice before withdrawal from school; achieve more consistent resolution of cases by the judicial system with meetings of school directors of pupil personnel and judges; increase the mandatory age of attendance to seventeen or eighteen; support multi-district alternative schools and vocational schools; provide day treatment programs and job skills for students; provide child care for teenage mothers in high school or alternative schools; and provide early intervention in the primary grades.

Secondary Area Vocational and Education Technology Centers

With the establishment of the Workforce Development Cabinet in 1990, the state operated vocational education system, including all secondary and postsecondary institutions, was moved under the governance of the State Board for Adult and Technical Education. During the 1997 Special Session of the General Assembly on postsecondary education, the postsecondary institutions were moved to the Kentucky Community and Technical College System.

The mission of the 54 area centers is primarily to serve high school students. With full-time enrollment at 6,100, over thirty programs are offered in the area centers, with the average of six to seven programs at each center. One hundred thirty-eight local school districts send students to the centers. For fiscal year 1998, \$33,349,730 has been budgeted, with the appropriations from SEEK and state general fund dollars equaling about \$15,000,000 each.

Resource people testified that area vocational education centers must be given a clear mission, an operational structure and adequate resources; area centers should offer a quicker response to the needs of business and industry; and there are inequities in salaries between area vocational education faculty and local school district faculty. All agreed that committed and talented administrators are critical to the success of an area vocational center.

A representative of the Department of Education urged the subcommittee to look at the inequity in funding between the locally operated schools and the state operated centers. He also recommended that: local accountability should be established through a local board, and should be based on measurable factors; and an annual performance report should be prepared. Effective

linkages between the high schools and the area technology centers include the alignment of the curriculum, developing individual graduation plans; joint professional development and the expansion of opportunities for equal access and enrollment.

Subcommittee on Postsecondary Education and the Teaching Profession

The Subcommittee on Postsecondary Education and the Teaching Profession met six times during the interim and considered the following issues:

Postsecondary Education

The subcommittee heard an in-depth presentation by a member of the Task Force on Postsecondary Education regarding the Governor's plan for postsecondary education. He described the processes used by the task force in fact finding and developing recommendations; shared recommendations from the consultants, the special interest groups, and the public; and highlighted the topics in the final report, *Postsecondary Education in Kentucky-An Assessment*, which included the following: Educational Attainment, Economic Opportunity and Kentucky's Future, A Postsecondary Education System Unprepared for the Next Century, Barriers to Excellence, and Reform Goals for Kentucky's Postsecondary Education System.

The subcommittee also heard from staff of the Council on Higher Education regarding performance funding for higher education institutions and information from the accountability reports for 1996-97.

Student Loan Programs

Staff representing the Kentucky Higher Education Assistance Authority (KHEAA) and the Kentucky Higher Education Student Loan Corporation (KHESLC) gave a status report of the loan program and future legislative needs. Since 1978, KHEAA has insured over 926,000 loans for nearly \$2.3 billion and has distributed \$238 million in grants, \$7 million in work study funds, and \$21 million in other financial aid, at no cost to the general fund. KHEAA employs approximately 200 people and their salaries and benefits are paid at no cost to the general fund. Kentucky is unlike other states in that it has not lost loan value. However to insure its continued competitiveness, a consultant to KHEAA advised the subcommittee that he sees three options for Kentucky to operate KHEAA, which include: (1) Keeping it as a state agency; (2) Changing it to a non-profit 501c(3) organization; or (3) Changing it to a municipal corporation. KHEAA will be requesting that the 1998 General Assembly change it to a municipal corporation and political subdivision in order to provide the flexibility needed. Staff also reported that the Kentucky National Guard Tuition Program had been implemented and would likely request additional funds in 1998; and the Teacher Scholarship Program required by HB 152 had been modified as required.

Education Professional Standards Board

Staff representing the Education Professional Standards Board (EPSB) presented information regarding alternative certification programs relating to HB 194 and HB 327(1996); implementation of HB 305 (1996), relating to options for renewing teaching certificates and changing ranks; and the development of a proposed structure for the Educational Professional

Standards Board. The administrative regulations to implement HB 194 were promulgated, effective May 12, 1997, allowing a candidate who holds a master's degree or a doctoral degree in a specific content area with at least five years of teaching experience in a regionally or nationally accredited institution of higher education, and who has successfully completed the teacher internship program, to be awarded certification at the secondary level in the specific content area. While there had been numerous inquiries about the application process, only three people had applied for certification. The staff reported that progress towards the implementation of HB 305 had been limited, although there were task groups assigned specific duties in the development process. Administrative regulations had not been adopted, but work was in progress and they expected to have a pilot in place in 1997-98.

Staff presented information regarding the alternative certification programs that are designed to attract persons to the teaching profession. There are currently programs between Fayette County and the University of Kentucky; Jefferson County and the University of Louisville and Kentucky State University; and Northern Kentucky University and Covington Independent. A concern still exists that the alternative programs are too much like the regular programs, as they take eighteen months to two years to complete, require persons to have baccalaureate degrees, and a 2.5 grade point average is required for admission.

Staff reported on the successful minority recruitment and retention efforts since 1992, including the teacher scholarship program and the Troops to Teachers program. The number of minority student graduates in teacher education has grown from 25 in 1992-93 to 226 in 1996-97. During 1992-93, there were only 2% minorities enrolled in teacher education, as compared to the 8% minority population in college. There are currently 996 minority students enrolled in teacher education. The scholarship program, which is funded at \$500,000 for each year of the biennium, has dramatically aided students. Of the 500 scholarships that have been given, 140 recipients are currently employed in Kentucky, and almost all others are still in the program. The agency will be requesting an increase in funding for the scholarship program in 1998.

The Education Professional Standards Board staff reported that the board will be seeking legislation in 1998 to separate from the Kentucky Department of Education all operations and management, with the exception of the Division on Minority Educator Recruitment and Retention.

Professional Development

Representatives from the Department of Education gave a status report of professional development programs and initiatives. According to survey data, professional development is more relevant and better meets teachers' needs than the experiences the teachers had before 1990. Current funding levels are adequate and need to be maintained, but efforts still need to be made to address the time issues for teachers, in order for them to participate in planning and learning with other teachers in their schools, for improvement activities, and to meet long-term goals. Teachers and administrators need flexibility to determine professional development based on their specific needs. There remains concern on how to provide quality assurances and to assist schools in being better consumers of professional development.

Staff reported that the regional service centers (RSCs) have continued to expand their assistance to local schools and districts and have made a concerted effort in 1996-97 to assist

schools in the "improving" category with planning and improvement activities. It appears that local education cooperatives, with some exceptions, have scaled back their professional development efforts, and districts are utilizing the regional service center resources more. A review of the career paths of teachers on loan from local districts shows that the RSCs are serving as a leadership development system, as the majority of the teachers are returning to districts in leadership positions or assuming distinguished educator roles.

Tenure

The sponsor of prefiled legislation relating to post-tenure reviews provided an overview to the subcommittee of his reasons for suggesting legislation that requires post-tenure reviews. Representatives from seven public universities, the community college system, and the faculty unions representing the community colleges and KY Tech postsecondary schools described their systems of tenure and presented their views on the proposed post-tenure review legislation. Most institutions are currently reviewing their existing tenure systems, and a few are considering including processes for post-tenure reviews beyond the current annual reviews. The institutions do not believe any legislation that would require a prescribed process of post-tenure review is appropriate. All agreed that quality teaching, service, and research are important to their profession, but that each institution has its own unique mission and priorities. Evaluation and tenure processes should reflect the institutions' uniqueness. They share the belief that tenure provides protection for assuring academic freedom.

Subcommittee on Students and Curriculum

The Subcommittee on Students and Curriculum met seven times this interim to consider the following issues:

Assessment and Accountability

The subcommittee considered several topics relating to the assessment and accountability system, including the mathematics portfolio, commercially available tests for measuring student achievement, the 1996-97 CTBS-5 results, and the distinguished educators program.

Mathematics Portfolio

Kentucky Department of Education staff and a member of the Mathematics Advisory Committee reviewed the mathematics portfolio initiative. The 1996 General Assembly included budget language to exclude the mathematics portfolio scores in calculating the accountability index this biennium. The budget language also called for changes to decrease the amount of time involved for teachers and students.

The Mathematics Advisory Committee, made up of 50 teachers, is redefining the scope of the mathematics portfolio to emphasize problem solving and mathematical communication, reviewing different ways of implementing the portfolio, and creating a new scoring guide. The development of the revised portfolio has included three phases. Phase I involved an expert group of 75 teacher volunteers who analyzed their students' work as evidence of problem solving. Phase II included a group of 249 teachers who collected short portfolios in their classrooms. Phase III,

the 1997-98 school year, provides everyone with the opportunity to learn the new system by selecting or developing portfolio tasks and using the new portfolio scoring guide.

Achievement Tests

A College of Education professor from the University of Kentucky summarized information about four commercially-available achievement tests. He advised that there are no shelf tests currently assessing everything Kentucky has identified for its students to know and be able to do. Each measures reading, language, mathematics, science, and social studies at various grade levels and provides national normative data. The testing companies are integrating open-response items in their assessments or including open-response items as a separate component that may be added. Some companies are now providing performance events. These tests do not assess students in the arts and humanities or practical living skills subject areas, as currently required by statute, and make limited accommodations for students with disabilities.

Staff from the Department of Education's Office of Curriculum, Assessment, and Accountability Services presented the results from the 1996-97 Comprehensive Test of Basic Skills (CTBS-5), a standardized test for reading, language arts, and mathematics, administered to students at the end of the primary program, and grades 6 and 9. Kentucky includes 98% of its students in the assessment, a higher percentage than most states. Students scored at, or close to, the 50th percentile for all three grade levels. They scored slightly lower than the national average in grade 9 mathematics.

The Distinguished Educator Program

The subcommittee heard a status report on the distinguished educator program from Department of Education staff and two distinguished educators. Through this initiative, Kentucky's most talented certified educators are identified for recognition through a detailed screening process. In addition, those selected must be willing to work in schools categorized as "in decline" or "in crisis" based on student performance on the state assessment and other school goals.

The 1996 General Assembly made several changes in the program in the budget bill: decreased the salary supplement for distinguished educators assigned to a school from 50% to 35%; excluded the salary supplement for retirement purposes, and limited the distinguished educator assignment to two years. Last biennium, 46 distinguished educators were assigned to the 53 schools designated as "in decline." The accountability results for the schools in the program last biennium indicate that 100% of these schools reversed the decline in student performance and 66% of the schools earned rewards for their improvement. This biennium, the distinguished educators' workload has increased dramatically, as the number of schools requiring services increased from 53 to 190, nine of which are "in crisis." Sufficient funding is appropriated this biennium to employ 41 distinguished educators; an additional eight will be hired using federal funds.

The Department of Education recommended the following actions to address the program's current needs and to assist in recruitment efforts: fund additional distinguished educator positions for the remainder of the biennium, waive the two-year limitation for distinguished educator service to provide program continuity; and include the 35% supplement for retirement purposes.

High School Graduation Requirements

Department of Education staff reviewed activities related to high school graduation requirements over the past six years and outlined the recommendations of the Commission on High School Graduation Requirements.

In 1990, the General Assembly directed the Kentucky Board of Education to review graduation requirements in light of the expected outcomes for students and schools set forth in the law. In 1992, the Department of Education established a 51-member Task Force on High School Restructuring to recommend strategies for improving high school education and aligning graduation requirements. The task force recommended five core components for high school graduation: an individual graduation plan, an integrated academic profile, school sponsored and approved activities, a culminating project, and an exit review. The state board funded pilot projects in 68 high schools to study the effects of implementing the core components. Universities also considered using the proposed requirements for student admissions purposes.

In 1995, the department began a five-month series of 41 focus groups and eight regional forums to review changes to the requirements. During March 1996, the Commissioner of Education established the Commission on High School Graduation Requirements, which submitted its recommendations to the state board in August. Educators, stakeholders, and the public were asked to respond to the recommendations. Based on this work, the Kentucky Board of Education will require the class of 2002 to have an additional unit of mathematics and science, and a unit of visual and performing arts. A total of 22 credits will be required, which includes one less elective.

Students Dropping Out of High School

Department of Education staff reviewed student dropout data and programs designed to deter the problem. The data, beginning with the 1991-92 school year through the 1994-95 school year, show that the high school dropout rate is increasing. The national dropout rate for high school students is 4.6 percent, with rates ranging from 2.3 percent to 10.2 percent, and Kentucky is at the median. Data for the 1995-96 school year indicate that 41% of the students with disabilities drop out of school, and the rates have continued to climb over the last few years.

Forty dropout prevention programs have been implemented in the 1996-97 school year, with a state appropriation of more than \$476,000. Other programs addressing the problem include extended school services, the no pass/no drive law, alternative education, service learning, the Advancement Via Individual Determination program, Jobs for Kentucky Graduates, teen parent programs, and preschool education. The department has advised districts about two successful intervention programs for students with disabilities, the Kentucky Community Based Work Transition Program and Technical Liaison Coordination. The department has also formed a task force to address the problem.

Remedial Services at Postsecondary Institutions

Staff from the Council on Higher Education, the Department for Technical Education, and the Director of Specials Programs for the Lexington Kentucky TECH campus appeared to report on remedial education at Kentucky's postsecondary institutions.

In 1995, approximately 33 percent of the university students took a remedial math course, compared to 72 percent of the community college students. For remedial English instruction, 16 percent of the university students took a remedial English course, a rate identical to the previous year, and 12 percent of the community college students took a remedial course, up two percentage points from the previous year. The remedial pass rates for math are significantly below the pass rates for remedial English, and public university students who take remedial courses, whether English or math, pass their remedial courses at significantly higher rates than community college students. Nearly 90 percent of the students in the Kentucky TECH system successfully complete remediation instruction and pass their program.

Remedial instruction has been self-supporting at universities, but not at the community colleges. In 1994-95, the cost was \$5.3 million; tuition revenue generated \$3.8 million and state general funds \$1.4 million. The higher education funding formula also generates funds for remedial students.

Kentucky is one of only four states in the South that do not have a statewide admissions policy for placing students into remedial classes at the university and community college levels. The Workforce Development Cabinet technical schools require students who demonstrate low reading and mathematics proficiency on either the Test of Adult Basic Education (TABE), or the ACT to take remediation courses.

Local District Initiatives

The Superintendent of Jefferson County Public Schools discussed the district's proposal for grade entrance and exit criteria, an initiative designed to guarantee that all students reach at least a fundamental level of academic achievement in reading, writing, and mathematics. The district will develop a profile for each student, indicating achievement needs based on diagnostic and exit tests, which will follow the student if he or she transfers to another school. Schools will develop intervention strategies in age-appropriate settings for students who fail to achieve the minimum competency necessary for the next level of school work.

Representatives from the Jessamine County Schools reported on different ways the district provides instruction for students. The district would like to provide part of the required 1,050 hours of instruction for students outside the normal six-hour school day and then be held accountable for student competency and improved student performance. The state funding formula does not consider some of these activities instructional for funding purposes. For example, instruction during lunch for kindergarten students does not qualify as instructional time, nor does computerized, programmed instruction for home-bound students. They support increased funding flexibility.

The Kentucky Education Technology System

Department of Education staff reported on the status of the Kentucky Education Technology System. All 176 school district offices are now directly connected to the state's information highway, use a standard set of office and communication devices, participate in the statewide electronic mail system, have unlimited access to the internet, and have implemented the statewide financial management system.

From 1992 to 1997, \$276.5 million in state and local funds has been allocated for the implementation of the technology master plan: \$79.5 million from both the state and local districts for the matching program, \$74 million in local funds above the match, and \$43.5 million for the state level expenditure. Of the current \$20 million annual appropriation, approximately \$12 million is allocated to school districts for the matching program. The total cost of implementing the plan in 1993 was estimated at \$560 million, which was revised in 1996 to slightly over \$522 million.

The district administrative system (MUNIS) has been installed in all 176 school districts; 160 districts will close their books using the system. Implementation of the system was complicated by the accompanying change in the chart of accounts. Professional development for using technology continues to be a statewide need.

The Kentucky Leadership Academy

The Department of Education and two participants in the Kentucky Leadership Academy discussed the program. The academy provides an adapted form of the distinguished educator training for teams made up of principals and central office staff from school districts. Several university faculty and consortia representatives are also participating. The purpose is to provide professional development on best educational practices for improved student achievement.

The teams, consisting primarily of three members, are organized geographically into nine cadres of approximately 35 participants, with a facilitator. The typical training day is anywhere from 10 to 11 hours a day for 30 days during a two-year period. The registration cost is \$2,000 per participant, or about \$67 per day. Registration fees cover 75 percent of the costs and the state is supporting 25 percent of the cost. Currently, 100 districts are participating.

SR 105 Study Recommendations Relating to Student Residency

Department of Education staff presented the recommendations of the Task Force on Student Residency, established in response to 1996 SR 105. The recommendations include additional reimbursement for excess cost incurred by districts serving students placed by their parents in noneducational facilities outside the parent's resident district, the creation of a review board to evaluate the accessibility of necessary services in a community prior to licensing or expanding residential facilities, and additional funding for the Kentucky Education Collaborative for State Agency Children.

Prefiled Legislation

The subcommittee recommended that the interim committee consider the following prefiled bills: 98 RS BR 23 - AN ACT relating to high school athletics, and 98 RS BR 218 - AN ACT relating to school-based decision making councils.

**REPORT OF THE 1996-97
SPECIAL SUBCOMMITTEE ON ENERGY**

Representative James Gooch, Chair

Rep. Royce Adams	Rep. Jim Lovell
Rep. Eddie Ballard	Sen. McGaha
Sen. Charlie Borders	Sen. Barry Metcalf
Sen. David Boswell	Sen. Kim Nelson
Rep. Dwight Butler	Sen. Joey Pendleton
Rep. Bob DeWeese	Rep. Chris Ratliff
Rep. Drew Graham	Rep. Katie Stine
Rep. J.R. Gray	Rep. John Vincent
Sen. Paul Herron	Rep. Charlie Walton
Rep. Tom Kerr	Rep. Brent Yonts

LRC STAFF: Linda Kubala, Tanya Monsanto, and Terisa Roland

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1998 KENTUCKY GENERAL ASSEMBLY**

SPECIAL SUBCOMMITTEE ON ENERGY

JURISDICTION: Matters pertaining to privately owned public utilities, rates, permits, certification of convenience and necessity; water district rates; utilities in cities; public utility cooperatives; oil and gas transmission companies; telephone companies and cooperatives; municipal utilities and water works; energy and fuel development, including synfuels; energy waste disposal; the Public Service Commission; solar and other renewable energy; hydroelectric and thermonuclear energy; and gasohol.

SUBCOMMITTEE ACTIVITY

The Subcommittee met ten times through October and will hold an additional meeting in November, to continue to take public testimony about electric utility restructuring and retail competition.

Electric Utilities

In September 1996, electric utilities updated the subcommittee on their plans to reduce emissions of both SO₂ and NO_x in compliance with Phase I and II of the Clean Air Act. Utilities expressed unanimity in their capacity to comply with both Phase I and II requirements. To reduce SO₂ emissions, utilities have combined the installation of new scrubbers with the switch to coal with lower sulfur content. To reduce NO_x emissions, utilities have opted to install low NO_x burners.

Concern was expressed over the possible effect of stiffer NO_x reduction standards that may be adopted as a result of negotiations between Midwestern, Southern, and Northeastern states to reduce the transport of ozone from the former to the latter. In September 1996 the subcommittee heard testimony related to these negotiations, and in November 1997, the subcommittee will receive an update on the outcome of the negotiations and recent suits brought against Kentucky by eight Northeastern states under Section 126 of the Clean Air Act.

Restructuring of electric utilities was the focus of several meetings during the interim. In April 1997, the Public Service Commission reported to the subcommittee on the changes in federal laws and regulations that have deregulated wholesale electric power markets, and moves in some states towards competition in retail markets. In June 1997, executives from LG&E Corporation and Kentucky Utilities Corporation briefed the members on the proposed merger between the companies.

Competition and restructuring in the electric industry was addressed again in a two-day meeting of the subcommittee in September 1997. Subcommittee members were briefed by experts from the National Council of State Legislators, the Federal Energy Regulatory Commission, the state Public Service Commission, state legislators from Montana and Illinois, and others on the effect of restructuring on both electric rates and on economic development. In October 1997, the subcommittee took testimony from parties interested in the issues; the time was not sufficient to hear all who wished to speak, so the subcommittee continued its public hearing in November. In October 1997, the authors reported on a study commissioned by Kentucky's four investor-owned

electric utilities on the probable effect of retail competition on both the price and consumption of electricity in the state.

Coal

The Subcommittee's only out-of-town meeting of the Interim was held in Western Kentucky, where members toured an underground mine, surface mine and related facilities in Webster and Hopkins Counties. At that meeting, members also visited the coal-fired electric plants clustered near Sebree, and were briefed by several coal and utility executives.

In June 1997, the Executive Director of the Office of Coal Marketing and Export reported on the outlook for Kentucky's coal industry. Kentucky's coal industry lost market share in both coal production and coal sales over the past several years. This loss is attributed to a combination of reduced demand for low sulfur coal and strong competition from Western states like Montana and Wyoming. Some in the industry promote adoption of coal production incentives, such as thin seam and reclamation credits against coal severance tax, to improve Kentucky's position in the regional coal market. The subcommittee evaluated the relationship between proposed retail competition in Kentucky's electric power markets and imports of low-sulfur coal from Western states into Kentucky's market. In meetings primarily dealing with electric utilities, in September 1996 and 1997, the effects of retail electric competition and changes in clean air restrictions on the coal industry also were addressed.

Energy Efficiency in State Facilities

Energy efficiency in public buildings has been of interest to the subcommittee, and in February 1997, representatives of the Department of Facilities Management and the Division of Energy briefed members on the implementation of HB 264, which established an energy efficiency program for state buildings. This bill encourages the state to engage in energy performance contracting to finance energy savings measures through reduced energy bills, but this financing had not yet been used. The state is implementing low-cost measures in several buildings. Related bills HB 655 and SB 157, more applicable to local than to state government facilities also were discussed.

Low-Income Home Energy Assistance Program

As the oversight committee for LIHEAP, the committee annually conducts a public hearing on the plan for the next year's Low Income Home Energy Assistance Program and reports its findings to the Legislative Research Commission. The program is administered by the Department for Social Insurance. Federal funds available for the program have continued to decline, and supplemental money in the Oil Overcharge Trust Fund will be depleted in 1998. During the February 1997 and the June 1997 meetings, concerns surfaced over the slow reimbursement by Community Action agencies of vendors who distribute fuel oils or gas to LIHEAP recipients. In June 1997, the subcommittee wrote a letter to the Department for Social Insurance expressing concern with the slow reimbursement process.

During the interim, the Special Subcommittee on Energy reviewed and reported to the LRC the LIHEAP Block Grant plans for FY 96-97 and FY 97-98. Total funding for LIHEAP was \$15.8 million for FY 96-97 and \$15.7 million for FY 97-98. For the FY 97-98 plan, the

Department of Social Insurance loosened its eligibility requirements for crisis assistance so that clients could apply for and receive help before they actually were disconnected or ran out of fuel.

Telecommunications

In March 1997, the subcommittee heard testimony related to problems with Kentucky's emergency 9-1-1 service, and considered the possibility of using a 3-1-1 line for non-emergency calls. Representatives from 9-1-1 dispatch centers and the State Police described regional coordination projects and brought up several issues in 9-1-1 service, as well as updating members on the status of 9-1-1 service in Kentucky's localities.

At the same meeting, representatives from the Office of the Attorney General and the Public Service Commission informed the subcommittee about the types and targets of telemarketing abuses and ways that their offices have responded. Concern was raised about the inability to use caller ID to identify some telemarketers, and suggestions were made regarding the need for new legislation in this area. The speakers left several "hotline" numbers that consumers can use to complain about telemarketers, remove their name from caller lists, or check whether callers are properly registered.

Other Actions

The Subcommittee did not take up any prefiled bills during the interim.

The subcommittee reviewed and approved two administrative regulations promulgated by the Public Service Commission:

- 807 KAR 5:026, relating to gas service; and
- 807 KAR 5:062, relating to changing primary interexchange (long-distance) carriers.

In September, 1997, the subcommittee reviewed but took no action on Executive Orders 97-1114 and 97-1037, which reorganized parts of the Public Service Commission. The orders abolish the Docket Control Section, the Consumer Services Branch, and the Division of Rates and Research, and create a Division of Financial Analysis, a Division of Research, a Division of Consumer Services, and a Division of Filings, with separate branches for Docket, Tariff Review, Annual Report, Electronic Filing, and GIS.

**REPORT OF THE 1996-97
INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE**

**Senator Gerald Neal, Co-Chair
Representative Tom Burch, Co-Chair**

Sen. Walter Blevins
Sen. Paul Herron
Sen. Tim Philpot
Sen. John "Eck" Rose
Sen. Dan Seum
Rep. John Arnold
Rep. Bob Damron
Rep. Jim Gooch
Rep. Jeff Hoover
Rep. Eleanor Jordan
Rep. Paul Mason
Rep. Steve Nunn
Rep. Kathy Stein

Sen. Tom Buford
Sen. Joey Pendleton
Sen. Dick Roeding
Sen. Julie Rose
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Rep. Vernon Miniard
Rep. Ruth Ann Palumbo
Rep. Katie Stine

LRC Staff: Dianna McClure, Laura Hendrix, Jare Schneider, Susan Warfield, Murray
 Wood, DeeAnn Wenk, Gina Rigsby and Cindy Broaddus

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1998 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP

SUBCOMMITTEE ON FAMILIES AND CHILDREN

Representative Tom Burch, Chair
Representative Eleanor Jordan, Vice-Chair
Representative Mary Lou Marzian, Vice-Chair

Rep. Bob DeWeese
Rep. Ruth Ann Palumbo
Sen. Paul Herron
Sen. Dick Roeding

Rep. Steve Nunn
Rep. Kathy Stein
Sen. Joey Pendleton

Senator Gerald Neal, Ex-Officio Member

SUBCOMMITTEE ON HEALTH CARE ACCESS AND COST OVERSIGHT

Senator Julie Rose, Chair
Senator Jack Westwood, Vice-Chair

Sen. Tom Buford
Sen. Joey Pendleton
Rep. John Arnold
Rep. Bob Damron
Rep. Bob Heleringer
Rep. Vernon Miniard

Sen. Paul Herron
Sen. Tim Philpot
Rep. Perry Clark
Rep. Jim Gooch
Rep. Jeff Hoover
Rep. Katie Stine

Senator Gerald Neal, Ex-Officio Member
Representative Tom Burch, Ex-Officio Member

INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE

JURISDICTION: matters pertaining to health and welfare in cities; fire prevention and protection; support of dependents; garbage and refuse disposal; public assistance; child welfare; adoptions; mothers aid and assistance to children; children's homes; incompetents; poor persons and poor houses; confederate pensions; aid to needy blind; commitment and care of children; mental health; health, medical and dental scholarships; local health units and officers; vital statistics; communicable diseases; tuberculosis hospitals; hospitals, clinics and personal care homes; foods, drugs and poisons; trailer park regulations; hotel and restaurant regulations as they pertain to public health; sanitation plants; sanitation districts; frozen food locker plants; alcoholism; physicians, osteopaths and podiatrists; chiropractors; dentists and dental specialists; registered nurses and practical nurses; pharmacists; embalmers and funeral directors; clinical psychologists; optometrists, ophthalmic dispensers; physical therapists.

COMMITTEE ACTIVITY

The Interim Joint Committee on Health and Welfare held fifteen meetings through October, 1997. The committee requested and was granted authorization to create the following two subcommittees:

Families and Children Health Care Access and Cost Oversight

The committee was referred one hundred fifty-seven administrative regulations for review and consideration. The committee found 900 KAR 6:040E, relating to health facility and health services licensure hearings, deficient. The following regulations were amended by the agency at the committee's request: 902 KAR 17:040, relating to data reporting by health care providers; 904 KAR 2:001, definitions for child support; 904 KAR 2:380, relating to Child Support Enforcement Program application process; 904 KAR 2:390, relating to Child Support Enforcement Program paternity; 904 KAR 2:400, relating to establishment, review and modification of child support and medical support orders; and 907 1:705, relating to the Kentucky Health Care Partnership Program Standards (Medicaid Managed Care).

The committee was referred the following nine Executive Orders, reorganizing various cabinets and programs in the state government:

- 96-862** relating to the reorganization of the Cabinet for Human Resources;
- 96-884** relating to the establishment of the Kentucky Health Purchasing Alliance in the Department of Insurance Public Protection and Regulation Cabinet;
- 96-924** relating to the reorganization of the Department for Medicaid Services;
- 96-939** relating to the reorganization of the Kentucky Developmental Disabilities Planning Council;

- 96-954** relating to the establishment of the Kentucky Commission on Human Services Collaboration;
- 96-1494** relating to the reorganization of the Cabinet for Health Services;
- 96-1499** relating to the reorganization of the Cabinet for Families and Children;
- 96-1576** relating to reorganization and the Disposition of Juveniles in State Custody;
- 97-96** relating to the reorganization of the Kentucky Commission on Human Services Collaboration; and
- 97-1348** relating to the reorganization of the Department of Public Health within the Cabinet for Health Services.

The committee held legislative public hearings on the following federal Block Grant applications administered by state agencies:

Community Services

Grant Period: October 1, 1996 to September 30, 1997

Total federal funds expected: \$6,567,924

Community Services

Grant Period: October 1, 1997 - September 30, 1998

Total federal funds expected: \$8,243,850

Community Mental Health Services

Grant Period: October 1, 1996 to September 30, 1997
for SFY July 1, 1997 to June 30, 1998

Total federal funds expected: \$3,773,054

Preventive Health and Health Services

Grant Period: October 1, 1996 to September 30, 1997

Total federal funds expected: \$2,402,823

Preventive Health and Health Services

Grant Period: October 1, 1997 - September, 1998

Child Care and Development Funds

Grant Period: October 1, 1997 - September 30, 1999

Total federal funds expected: \$44,663,720

Social Services Preliminary

Grant Period: July 1, 1997 - June 30, 1998

Total federal funds expected: \$35,212,092

Maternal and Child Health

Grant period: October 1, 1997 - September 30, 1998

Total federal funds expected: \$11,973,723

Community Mental Health Services

Grant Period: October 1, 1997 - September 30, 1998

Total federal funds expected: \$3,808,501

Substance Abuse Prevention and Treatment

Grant Period: October 1, 1997 - September 30, 1999

Each month the committee received a briefing from the Secretary of the Cabinet for Families and Children on the Fiscal and Programmatic Impacts on Kentucky of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193).

Each month the committee received a briefing from the Secretary of the Cabinet for Health Services on the Implementation of the Kentucky Health Care Partnership, a federally approved Section 1115 Waiver to establish capitated managed care for Kentucky's Medicaid recipients through regional groupings of health care providers known as "Health Care Partnerships".

The committee accepted the Kentucky Council on Higher Education's selection of the University of Louisville as the site for the establishment and operation of the State Autism Training Center (96 HB 159).

The committee received briefings on the following subjects:

- Kentucky Cancer Control Program Annual Report;
- Department for Public Health Services Breast Cancer Screening Program Annual Report;
- Measuring Quality in Managed-care Systems using tools developed by the National Committee for Quality Assurance;
- Health Data Collection under KRS 216.2920 through 216.2929 for the purpose of Health Care Cost and Quality Comparison;
- Concerns about inclusion of Hospice services in Certificate of Need Nonsubstantive Review Status;
- A welfare recipient's views on how the Kentucky welfare system can help recipients enter or re-enter the job market;
- Cabinet for Families and Children cuts in Social Services Block Grant contracts;
- Kentucky State Data Center statistics on shifts in characteristics of populations in Kentucky;

- Kentucky Association of Gerontology's statement on gerontology issues of interest to that organization;
- Manpower Demonstration Research Corporation presentation on lessons learned from welfare reform initiatives in other states;
- Private sector activities directed toward employment of current and potential welfare recipients;
- Kentucky Nurses' Association concerns about hospital-based patient safety;
- Update on the Supported Living Program, as mandated by KRS 210.770 to 210.795;
- Briefing on the effect on state Medicaid programs from the purchase of long-term care insurance by LTC, Inc.;
- Testimony from the public about reduction in state funds for elder care programs;
- Cabinet for Health Services update on Estate Recovery under the Kentucky Medical Assistance Program;
- Council for Affordable Health Insurance's Overview of Federal Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191) and Recommendations for Kentucky Compliance with the Act;
- Discussion of proposed reduction in Medicaid reimbursement of nursing facilities;
- Cabinet for Health Services discussion of the Kentucky State Health Plan Update and Certificate of Need Policy;
- Report from Attorney General's Task Force on Prescription Drug Abuse and related legislation;
- Discussion of proposed cuts in the private child care facilities levels of care reimbursement system; and
- Cabinet for Families and Children's Status Report on the activities of the Division of Child Support Enforcement.

Subcommittee on Families and Children

The Subcommittee on Families and Children held eleven meetings through October, 1997. Subjects considered by the subcommittee included:

1. Factors related to the lagging development of psychiatric residential treatment facilities within the state and the lack of availability of community based services for children with severe emotional disabilities and their families;

2. Concerns about rapid growth in Medicaid expenditures for children with severe emotional disabilities in out-of-state residential treatment facilities;
3. The availability of medical information after adoptions are finalized, and the development of swift adoption procedures following 1996 legislation addressing adoption issues;
4. Concerns of adoptive families about meeting the medical needs of special needs adopted children past the age of majority; and
5. Implementation of domestic violence issues following 1996 legislation, including expansion of the duration of protective orders and the recognition of out-of-state protective orders; establishment of a statewide victims notification system; increase in the training and certification for service providers; strengthening of arrest procedures, penalties, and court procedures; and enhancement of the roles of victim advocate;.
6. Consideration of the governor's proposed legislation for child protective services, including expanding the definition for abuse and neglect, reducing the time for dispositional hearings, and expanding the criteria for termination of parental rights, and expediting the process for termination. Profile of abused and neglected children in Kentucky;
7. Financing services through Medicaid to emotionally disabled children with complex treatment needs by an expansion of the Mental Health Department's Impact program;
8. The needs of children with severe emotional disabilities being served in out-of-state facilities, including the cost of care, the availability of in-state facilities, monitoring of children out of state, and the appropriateness of care;
9. Oversight and monitoring of treatment centers for delinquent youth, including contracting with private providers, and the decision-making process for closing facilities;
10. Family service worker caseloads for child protective service workers; and
11. Exploring repercussion from recurring budget shortfalls within the Department for Social Services and the consistent use of one-time funding sources to resolve the crisis.

Subcommittee on Health Care Access and Cost Oversight

The Subcommittee on Health Care Access and Cost Oversight held six meetings through October, 1997. Subjects considered by the subcommittee included:

1. *Certificate of Need (CON) programs across the country.* An overview of the CON program in Kentucky and efforts in other states to streamline or eliminate the CON was presented. Industry representatives testified as to their views on CON. Representatives from the Kentucky Medical Association, Kentucky Hospital Association, Kentucky Association of Health Care Facilities, and Ephraim McDowell Regional Medical Center recommended that the CON program remain in place with no changes. Columbia/HCA and Jewish Hospital recommended that the CON program be retained with changes for certain services and

facilities, and that the process be streamlined. The phase-out of the Ohio CON program was discussed.

2. *The CON program in Kentucky.* The Cabinet for Health Services' Certificate of Need Office and the Health Policy and Analysis Branch testified regarding the effectiveness of Kentucky's CON program, and stated that the program has not been effective in meeting its stated goals, such as controlling the costs of health care, while creating barriers to competition.
3. *Individual Health Insurance.* The Council for Affordable Health Insurance testified regarding the individual health insurance market in Kentucky and presented an overview of responses to the federal Health Insurance Portability and Accountability Act. The Council recommended that Kentucky adopt a high risk pool, streamline the rate review process, provide some rating restrictions, limit mandated benefits, and bring competition into the market.
4. *The CON process and health care costs.* A professor from Georgia State University testified regarding CON regulation and the health care delivery system. He testified that CON laws have not been effective in controlling health care costs. The Kentucky Home Health Association and the Kentucky Association of Hospice testified that CON laws in Kentucky should be retained to control costs.
5. *Pharmacy reimbursement for Medicaid.* Pharmacy reimbursement for providers in the Region 3 Medicaid Managed Care Partnership was discussed. Pharmacy providers, as well as representatives from the Partnership, testified as to the proposed rates for reimbursement. The pharmacy representatives objected to lowering reimbursement rates and stated that they could bring the overall costs of care down for their patients with proper oversight of the use of medications and patient consultation.
6. *Physician assistants.* A legislative proposal, related to physician assistants, for the 1998 Regular Session was discussed by the subcommittee. The proposal would authorize physician assistants to prescribe and administer non-scheduled legend drugs and medical devices, under the supervision of a physician, and within the control of a Physician Assistant Advisory Committee established by the Kentucky Board of Medical Licensure. Several physician assistants testified that this bill would increase access to medical care in rural areas and allow physicians to concentrate on more complex cases.

**REPORT OF THE 1996-97
INTERIM JOINT COMMITTEE ON JUDICIARY**

**Senator Ernesto Scorsone, Co-Chair
Representative Mike Bowling, Co-Chair**

Sen. Gary Johnson
Sen. David Karem
Sen. Tim Philpot
Sen. Larry Saunders
Sen. Jack Westwood
Rep. Kevin Bratcher
Rep. Perry Clark
Rep. Herbie Deskins
Rep. Bob Heleringer
Rep. Jeffrey Hoover
Rep. Tom Kerr
Rep. James Lovell
Rep. Arnold Simpson
Rep. Katie Stine
Rep. Rob Wilkey

Sen. Nick Kafoglis
Sen. Gerald Neal
Sen. Julie Rose
Sen. Elizabeth Tori
Sen. David Williams
Rep. Stan Cave
Rep. Jesse Crenshaw
Rep. Charles Geveden
Rep. Kathy Hogancamp
Rep. Susan Johns
Rep. Gross Lindsay
Rep. Frank Rasche
Rep. Kathy Stein
Rep. John Vincent

LRC STAFF Norman Lawson, Scott Varland, Mac Lewis, Lou Pierce, Lorena Watson,
and Dawn Groves

**PRESENTED TO THE
LEGISLATIVE RESEARCH COMMISSION
AND THE
1998 REGULAR SESSION OF THE
KENTUCKY GENERAL ASSEMBLY**

SUBCOMMITTEE ORGANIZATION AND MEMBERSHIP

SUBCOMMITTEE ON CORRECTIONS AND SENTENCING

Representative Gross Lindsay, Co-Chair
Senator Elizabeth Tori, Co-Chair

Rep. Susan Johns
Rep. Kevin Bratcher
Rep. Jesse Crenshaw
Rep. Tom Kerr
Rep. Frank Rasche
Rep. Katie Stine

Sen. Julie Rose
Rep. Perry Clark
Rep. Jeffrey Hoover
Rep. James Lovell
Rep. Arnold Simpson
Rep. Rob Wilkey

SUBCOMMITTEE ON JUVENILE JUSTICE

Representative James Lovell, Co-Chair
Senator Gary Johnson, Co-Chair

Sen. Jack Westwood
Sen. Gerald Neal
Rep. Stan Cave
Rep. Charles Geveden
Rep. Kathy Hogancamp

Rep. Kathy Stein
Rep. Kevin Bratcher
Rep. Herbie Deskins
Rep. Bob Heleringer
Rep. John Vincent

INTERIM JOINT COMMITTEE ON JUDICIARY

JURISDICTION: matters pertaining to contracts; the Uniform Commercial Code; debtor-creditor relations; ownership and conveyance of property; private corporations and associations; competency proceedings; administration of trusts and estates of persons under disability; descent, wills and administration of decedent's estates; domestic relations (including domestic violence); adoption; abortion; support of dependents; statutory actions and limitations; eminent domain; arbitration; summary proceedings; declaratory judgments; witnesses evidence; legal notices; construction of statutes; civil procedure; the Kentucky Supreme Court, the Supreme Court, the Court of Appeals, Circuit Courts and District Courts; jurisdiction, rules, terms, judges, commissioners, selections, districts, qualifications, compensation and retirement; clerks of court; juries, attorneys; commissioners and receivers; court reporters; habeas corpus; crimes and punishments; controlled substances offenses; driving under the influence; criminal procedure; probation and parole; correctional penitentiaries and private prisons; civil rights; and juvenile matters.

COMMITTEE ACTIVITY

The first meeting of the committee was held in August, 1996 and was a joint meeting with the Budget Review Subcommittee on Justice, Corrections, and Judiciary, of the Interim Joint Committee on Appropriations and Revenue. The Secretary of Justice briefed the committee on the inter-cabinet teams formed with the Justice Cabinet and the Cabinet for Families and Children for the purpose of implementing the transfer of functions for juvenile justice matters from the former Cabinet for Human Resources and the Cabinet for Families and Children to the newly formed Department of Juvenile Justice in the Justice Cabinet. At the meeting the Secretary informed the committee that a former official of the New Jersey Department of Juvenile Services had been appointed to head the Department of Juvenile Justice. The Secretary of the Cabinet for Families and Children then explained to the committee the steps being taken by that cabinet to implement the provisions of the juvenile code and discussed the progress in implementing the federal consent decree involving juvenile facilities and services. A Deputy Secretary of Justice then informed the committee on the progress of construction of the juvenile facility in Breathitt County.

The second meeting of the committee was held in September, 1996. At this meeting the Justice Secretary introduced the new Commissioner of Juvenile Justice, to the committee and the new Commissioner discussed some of his philosophy regarding juvenile treatment and juvenile facilities. The next speakers were from the Department of Criminal Justice training with a report on the implementation of the training required for 1996 HB 40 relating to permits for carrying concealed deadly weapons. They indicated that the course of instruction had been finalized, that the initial group of instructor trainers had been trained, and the course was now being taught to applicants. The Justice Secretary and the Secretary of the Cabinet for Families and Children then discussed the implementation table for transfer of facilities and personnel to the Department of Juvenile Justice; this was followed by an update by a representative of the Justice Cabinet on the juvenile consent decree negotiations with the federal government.

The third meeting of the committee was held in October, 1996. At this meeting the Justice Secretary described changes in the asset transfer schedule for funds relating to

implementation of juvenile code changes and progress on implementation of getting the Department of Juvenile Justice operational. This was followed by a report on progress in choosing architectural firms for the construction of juvenile facilities in Northern Kentucky and Western Kentucky. The Commissioner of the Department of Juvenile Justice spoke of new budget needs, including \$7 million for implementation of the Juvenile Consent Decree. He also reported on the success of a Kentucky Bar Association program in which attorneys volunteer to provide services pro bono (without charge) to low-income persons.

The fourth meeting of the committee was held in November, 1996. At this meeting the committee heard from several persons representing organizations interested in grandparents rights, who wanted to make it easier for grandparents to adopt children left in their care and who wanted funding and insurance programs to supplement taking care of these children. The Justice Secretary updated the committee on the progress of facility construction in Breathitt county and in Newport and Paducah. The Commissioner of Juvenile Justice reported on changes the department was seeking with regard to the juvenile consent decree and other juvenile justice matters. The Department of Criminal Justice presented a report on the progress of training persons to meet the requirements of 1996 HB 40, relating to concealed weapon permits.

The fifth meeting of the Committee was held in December, 1996, for the purpose of approving the committee report on the implementation plans of the Department of Juvenile Justice for juvenile facilities, programs, funding, personnel, and other issues. The report was approved.

The sixth meeting of the Committee was held in February, 1997. The Chairman introduced the new Senate Judiciary Committee Chairman, who gave a short explanation of his views regarding the committee. This was followed by a report from the Department of Corrections relating to prison population, probation, parole, and other programs operated by the Department. The Justice Secretary described preparations for the upcoming execution followed by reports on sex offender treatment programs, the housing of Class D felons in county jails, intensive probation supervision and other Corrections programs.

The seventh meeting of the Committee was held in March, 1997. The committee discussed at length 98 RS BR 245, relating to changing the method of execution from electrocution to lethal injection. The Justice Secretary and the Commissioner of Corrections discussed details of the upcoming execution. The committee also heard a proposal for public notification that a sexual predator has moved into the neighborhood. A representative of the Department of Corrections presented a report on her recent research into the effectiveness of the sexual offender treatment program. This was followed by a description of the VINE victim notification program being operated by the Department of Corrections and local jails, which informs the public when persons are released from jail or prison.

The eighth meeting of the Committee was held in April, 1997. At this meeting the Attorney General introduced Mr. Fred Goldman, whose son was murdered in California; he spoke of the need for the protection of crime victims and the need for victim's rights legislation and for lengthy sentences, with 85% service of sentence for persons convicted of violent offenses. This was followed by a discussion by the Attorney General's Office of problems with Kentucky statutes relating to violent criminals. The committee approved administrative regulations relating to Cadet Troopers for the State Police. The chair appointed chairs and vice chairs for the subcommittees on Juvenile Justice and Sentencing and Corrections.

The ninth meeting was held in June, 1997. After extensive discussion, the committee approved an amended version of 98 RS BR 245, relating to changing the method of execution from electrocution to lethal injection, for prefilng. The amendments provided that lethal injection would be the only method of execution for persons convicted after the effective date of the legislation, and that persons convicted before that date would have the option of electrocution or lethal injection. The amendments also provided for crime victim witnesses to the execution. Following the approval of the prefilng, an extensive discussion was held, with witnesses both approving of and opposing execution as a criminal penalty.

The tenth meeting was a two-day meeting in July, 1997. The first part of the meeting featured a tour of the Kentucky State Police Post at La Grange, the State Reformatory at La Grange, the Luther Luckett Complex, the Kentucky Criminal Psychiatric Center and the Roederer Correctional Complex and its boot camp, the Adjustment and Classification center, and the Kentucky Correctional Institution of Women. At each facility the warden and staff described the facility, its programs, inmate population, and needs. The prison facility tour was followed by a tour of the probation and parole facilities in Louisville, where the staff explained their programs, population served, and needs. The first evening, an informal dinner meeting was held with representatives of the Justice Fellowship, Departments of State Police, Corrections, and Juvenile Justice, and legislators. The second day of the meeting featured a tour of Department of Juvenile Justice facilities in the Louisville Area, including Cardinal Treatment Center, Central Kentucky Youth Development Center, Johnson-Breckinridge Treatment Center, and Rice-Audubon Treatment Center, where the staff informed the committee members of programs, population served, facility needs, and legislators had an opportunity to speak with some of the youth in treatment.

The eleventh meeting of the Committee was held in August, 1997. At this meeting numerous speakers presented information on fathers' rights in child custody cases, the lack of custodial equality, and legislative changes needed to support more equal arrangements in custody cases. This was followed by a discussion of the length of time which it took foster parents to adopt children in the special needs adoption program. The next speakers talked of grandparents needs with regard to child custody and visitation, and visitation and custodial equality. Its sponsor presented 1998 RS BR 143, which would prevent same sex marriages in Kentucky. This was followed by discussions by parties representing both sides of the issue of permitting same sex marriages. Another sponsor presented 1998 RS BR 305, which would prohibit issuance of domestic violence orders and emergency protective orders to same sex couples. This was followed by discussions by parties representing both sides of the issue.

The twelfth meeting of the Committee was held in September, 1997. The first speakers, representing the American Association of Retired Persons spoke in favor of legislation which would change various probate laws. 98 RS BR 249 makes an inventory of assets in an estate optional rather than mandatory. 98 RS BR 251 deletes the current Kentucky law which specifies that a marriage revokes a prior will. Other speakers took up other probate matters, including 98 RS BR 250, which would change the Uniform Transfers on Death Act, and 98 RS BR 248, which would increase the amount of money a surviving spouse would receive if the spouse died intestate. The next speaker spoke about 98 RS BR 806, relating to generation skipping taxes, and 98 RS BR 807, which would define and provide for durable powers of attorney, 98 RS BR 808, relating to time credits have to come in to court to receive payment, 98 RS BR 810, relating to

qualified disclaimers for joint property, and 98 RS BR 809, which would make changes to the Uniform Simultaneous Death Act. No action was taken on the bills.

The thirteenth meeting of the committee was held in October, 1997. The purpose of the meeting was to discuss legislation relating to abortion. The proposals discussed included 98 RS BR 224 and 98 RS BR 905, relating to waiting periods and informed consent prior to the performance of an abortion, 98 RS BR 928, which expands the number of persons who may consent to an abortion for a minor in lieu of the courts or the minor's parents, 98 RS BR 868, relating to questions which must be asked of the minor seeking an abortion by the judge, 98 RS BR 243 and 98 RS BR 241, which would prohibit partial birth abortion, 98 RS BR 961 and 98 RS BR 962, which prohibit fetal homicide and 98 RS BR 462, which would place abortion clinics under the same regulation as outpatient surgical facilities. Numerous persons appeared and spoke for and against each piece of legislation, describing legal, ethical, religious, moral, and other matters relating to each piece of legislation and relating to abortion in general.

The fourteenth meeting of the committee was held in November, 1997. The first speaker spoke of the conclusion of the problems which he and his wife had in adopting two children whom they previously had in foster care under the special needs adoption program. The next speakers were from the Cabinet for Families and Children, who spoke of the special needs adoption program, the foster care program, how the adoption programs worked, and changes needed to shorten the time from application to completion of an adoption. The next speaker was the Secretary of Public Protection and Regulation, who spoke of the study undertaken by a task force on mentally ill persons who had committed crimes and discussed some of the recommendations of the task force relating to public notification following the release of persons who are mentally ill but who have committed crimes, and the possible abolition of the guilty-but-mentally-ill defense, and the use of psychiatric review boards to assess the dangerousness of mentally ill persons who have completed prison terms. The next speaker was the Attorney General accompanied by a representative of Mothers Against Drunk Driving, who spoke on the recommendations of the Attorney General's Task Force on Drunk Driving, which included reducing the blood alcohol content to .08 from .010 for adults, a child endangerment statute increasing penalties when a drunk driver has a child in the vehicle, and the adoption of administrative license revocation in DUI cases. Speakers presented details of the need for adopting these proposals.